

**REVIEW OF PANCHAYATI RAJ ACTS IN THE CONTEXT  
OF  
PROPOSED CONSTITUTIONAL AMENDMENT BILL  
(ANDHRA PRADESH, BIHAR, GUJARAT, HARYANA, KARNATAKA,  
MADHYA PRADESH, UTTAR PRADESH AND WEST BANGAL)  
( 1 9 9 1 )**



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# C O N T E N T S

			PAGES
ACKNOWLEDGMENTS			i-iii
CHAPTER	I	Introduction	1- 17
CHAPTER	II	Constitutional Status to Panchayati Raj: Comparative Analysis of Constitutional Amendment Bills	18- 37
CHAPTER	III	Panchayati Raj Legislative Framework	38-187
CHAPTER	IV	Officials' Perception of Panchayati Raj Institutions	188-226
CHAPTER	V	Field Notes and Observations	287-249
CHAPTER	VI	Recommendations	250-273
APPENDIX			
Appendix	I	Panchayati Raj in Select States at a Glance	274-275
Appendix	II	Schedule I - Panchayati Raj Representatives	276-281
Appendix	III	Schedule II - Officials	282-286

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## CHAPTER - I

### INTRODUCTION

The term 'Local self-government' and 'Local Government' are synonymous. The controversy regarding their use is dead now. What is important is to analyse the elements of a local self-government system.

In general, local self-government may be said to involve the conception of a territorial, non-sovereign community possessing the legal right and the necessary organisation to regulate its own affairs. This in turn presupposes the existence of a local authority with the power to act independently of external control as well as the participation of the local community in the administration of its own spheres that is, a local self-government has the following attributes: (a) territory, (b) population bound together by a sense of community and (c) a governmental organization which is responsible and responsive to the needs and wishes of the local community. But the government is not sovereign, it is subordinate to superior authorities of the country. The powers and jurisdiction of a local self-government authority are limited and its functions within limits laid down by the law of the country. Within such limits it has autonomy in regard to the exercise of its powers and the discharge of its functions and duties.

The basic units of a local self-government system are generally based on a distinction between urban and rural population i.e., villages and towns. The distinction between them can not only be explained in physical terms but also in terms of social psychology,

social attitudes, and habits. Physical factors such as density of population per acre, organized provision of services and social amenities are important since they have a direct bearing on social psychology and attitudes. All these factors combined build up a sense of community. The sense of community is a very important factor since it is the basis of loyalty of an individual to the place of his residence. The individual develops a feeling of love and affection for his locality.

We may divide the history of local self-government in India into three fairly distinct periods. The first period which may be taken to have started with the setting up of a local authority in Madras ended in 1882. Lord Ripon's Resolution of 1882 is the beginning of the second period. The Reforms of 1919 marked the commencement of the third period. The year 1947, when India became independent, does not start a new period since the system continued to be the same. The history of local self-government during its first period is not only characterized by absence of local self-government in the accepted sense of the term but it also gives us an idea of the attitude of the people towards local self-governing institutions. The attitude was one of active hostility in 1862, it under-went some change as years rolled on. The people were also unwilling to pay direct taxes and so indirect taxation had to be introduced. Lack of adequate degree of interest on the part of the people in civic affairs and unwillingness to pay taxes for municipal improvements are still there. These are thus chronic problems with which we have still to grapple.

The unwillingness of the people to pay taxes was due to the fact that they did not understand the purpose. In the North-Western provinces in the early years of the British rule the Magistrate found it usually easier to persuade the leading citizens to make arrangements for the construction of drains or other works themselves. They would cooperate if they could see their money laid out in bricks and mortar, whereas they would resist strongly a tax whose purpose they did not understand. In Bareilly the inhabitants rose in revolt against the tax proposals, and had to be put down by the military.

The second period - this period starts with the announcement of the Government of India Resolution on Local self-government in 1882. In 1881 the Resolution on Provincial Finance had invited "the local (Provincial) Governments to undertake a careful scrutiny of provincial, local and municipal accounts with the view of ascertaining: (1) What items of receipt and charge can be transferred from 'Provincial' to 'Local' heads for administration by committee comprising non-official, and wherever possible, elected members; and what items already 'local' but not so administered, might suitably be so; (2) What redistribution of items is desirable in order to lay on local and municipal bodies those which are best understood and appreciated by the people; (3) What measures, legislative or otherwise are necessary to ensure more local self-government. Incidentally to the scrutiny they will probably notice and might carefully consider; (4) ways of equalising local and Municipal Taxation throughout the Empire, checking severe or unsuitable imports and favouring farms most in accordance with

popular opinion or sentiment." Lord Ripon's government addressed circulars to provincial governments on the subject of local self-government. It was on the basis of particulars collected in pursuance of the above mentioned circulars that the Government of India framed its famous Resolution of 1882. The Local Bodies Act of 1885 reflects the validity of Ripon's policy which actually paved the way for decentralised Local self-governing institutions down to the village level.

Lord Ripon who was perhaps alone in his liberalism looked at the problem of local self-government in distinctly different light. He thought that political education and administrative efficiency should be put into perspective. He regarded local self-governing institutions as instruments of political and popular education.

The next land-mark is the Report of the Decentralisation Commission which was set up in 1907 to enquire into the financial and administrative relations of the Government of India and the Provincial governments and of 'authorities subordinate to them' and to report 'whether by measure of decentralisation or otherwise' the system of government could be 'simplified and improved.' It submitted its Report in 1909. Their recommendations were sound but cautious, conceived in terms of administrative improvement, rather than of national political aspirations.

The Decentralisation Commission emphasised the importance of village organization, insisted on universal establishment of Taluka and Tehsil Boards as the 'principal agencies of local government,' suggested measures to strengthen financial resources of rural boards, favoured continuance of District Magistrates as chairmen of District Boards and various other measures.

These recommendations were whittled down in process of transmission into the Resolution of 1915. By the time this Resolution was issued the proposals became out of date in view of the State of national political aspirations. The Government of India set to work to evolve an advanced policy which came to be embodied in the Resolution of 1918.

The Third period - The years 1918-20 were a period of waiting. The Constitutional Reforms were announced. Preparations were started for implementing new reforms. Local self-government was a transferred subject under Dyarchy and to be placed under the charge of a Minister. The constitution of local authorities were further democratised.

Local self-Government was set-up by an order of the President of India in order to review the problems of local self-Government of the entire country and to co-ordinate ideas relating to local self-Government. Again, the government of India has been convening the conferences of Municipal Corporations since 1959. These conferences are attended by the Union Minister for Health, Mayors and Commissioners of all the Municipal Corporations in India. There is also an all-India Panchayat Parishad with branches in States. This is a non-official body created to promote the interests of the Panchayat Movement. These bodies, the Central Council of Local self-Government and the conference of Municipal Corporations, have been doing useful work.

The Government of India is alive to the question of the integrated approach and appointed a Rural-urban Relationship committee to suggest a new structure which will enable local

authorities to cope up with the problems arising from economic development, and consequent urbanization at a rather rapid pace. Such a periodical examination of the structure of local self-Government will be necessary in future. It is demand of the rapidly developing science and technology.

During this period serious attention has been paid to the problem of rural local self-Government. Mahatma Gandhi and other top leaders of the Indian National Congress had always been emphasising the need of paying greater attention to the problem of the villages. Framers of the Constitution of India laid it down as a duty of the government to organise self-government institutions at the village level. The Congress which came to power in the states and in the Union Government took up the matter in right earnest. Necessary legislations were passed and village panchayats have come to be established all over the country.

The re-organisation of local self-government system in rural areas has been long overdue. The municipal authorities were first set up in urban areas. The government of India Resolution of 1882 for the first time directed local governments to set up rural boards similar to municipal boards. It further directed that the unit of administration should be small - the sub-division, tehsil or taluka. Next came the report of the decentralisation commission which had been appointed in 1907 to enquire into the financial and administrative relations of the Government of India and the provincial governments and of 'authorities subordinate to them' and to report 'whether by measure of decentralisation or otherwise' the system of government could be 'simplified and improved'. It submitted its Report in 1909. The Commission for the first time

emphasised the importance of village organisation, and insisted on universal establishment of Taluka and Tehsil Boards as the 'principal agencies of local government'. These suggestions and directions were modified by provincial governments. Villages continued to be neglected. Tehsil or Taluka Boards were not strengthened. Instead, District Boards were retained as principal local self-governing institutions in the rural sector.

District Boards were hardly adequate for purposes of local self-government. The jurisdiction of a district board coincided with that of a revenue district - a unit created long ago for purpose of land revenue administration and police administration. The area and the population of a district made it impossible for it to acquire necessary cohesion and vitality for functioning as an effective institution. The States started taking over many of the functions of the district boards. On the other hand, Gram Panchayats were set up. These two powerful forces (a) provincialisation of several functions of district boards and (b) growth and development of Gram Panchayats brought about a situation in which district boards could not be continued for long. The introduction of Community Development Programme forced the issue of the reorganisation of rural local self-government system.

After independence for Community, development through community participation was envisaged. And two programmes Community Development and National Extension Services were launched in 1952 and 1953 respectively but they failed to achieve their development objectives, because of the facts the plans formulated were based on percolatory concept of development and non-participatory concept of

development. The whole programme revolved round trickled down theory. However, proposals of the Planning Commission for the Second Five Year Plan stressed the need for creating within the district a well organized Democratic Structure of Administration in which Village Panchayats would be organically linked with popular organizations at higher levels. The proposal was subsequently taken up by the Study Team appointed by the Committee on planned projects and was presided over by Balwant Rai Mehta which submitted an elaborate report in 1957.

The Mehta Study Team realizing the importance of popular participation recommended creation of institutions which were to be statutory, elective, comprehensive in duties and functions, equipped with necessary executive machinery with adequate resources and with enough autonomy and freedom. The creation of Panchayati Raj in 1959 with the object of interesting the authority and responsibility for rural development to rural people was held not only as an innovation but also as a revolution.

Three Tier system for self-government at the grass root level was recommended by the Study Team and three major tasks viz., developmental, administrative and political were assigned to these institutions. However, these institutions could not flourish due to short sightedness and another due to lack of political will. As a matter of fact at the time of introduction of C.D. programmes and National Extension Services a great blunder was committed. Before infrastructures for the implementation of these programmes could be created, the programme was launched. The B.D.O.'s and their subordinate staffs were sent to rural areas and were required to hire the buildings for office purposes and search for the houses for

their own residences. The local elites grabbed this opportunity by renting out a few big complexes for the office purpose and provided free accommodation to the field level staff including the B.D.Os. This resulted into developing collusion between the local level bureaucracy and local elite. At the time of introduction of Panchayati Raj Institutions the local level bureaucracy tried to pay in return to the local elites by providing elected posts of these institutions through their manipulative tactics. As a result, in the initial stage itself these institutions, instead of becoming the units of popular participation, became the citadel of local influentials for grinding their own axe.

Moreover, as these institutions took a shape the M.L.As, M.L.Cs and other politicians came, to realize the strategic importance of P.R. Institutions and started looking at representatives of these institutions as their political rivals. As a consequence, the decline of these institutions started taking place. The performance and objectives of P.R. Institutions were considerably diluted leaving them in the state of directionlessness. The declining political support coupled with indifferent attitude of local level bureaucracy further led diminution of the developmental and administrative role of Panchayati Raj Institutions adding insult to the injury.

The basic philosophy behind Panchayati Raj Institutions was to ensure people's participation in development programmes which was expected to unleash the arrested process of change and development. However, these institutions failed to a great extent on both the accounts due to their non-performance. Still it had a perceptible

impact in terms of galvanizing the average citizen in rural India and wherever it took its roots, it helped in narrowing the gap between the bureaucracy and the people.

In such a situation, and changing scenario at the National level by way of Janata Party coming to power, again a Committee was appointed under the chairmanship of Ashok Mehta to suggest ways and means for reviving Panchayati Raj Institutions. Diagnosing the ills afflicting the Panchayati Raj Institutions the Committee pointed out that haphazard programmes, non-performance, rise of vested interest, lack of political will on the part of Central and State Govts., lack of adequate financial resources etc. positively contributed to its decline. At the same time Panchayati Raj itself got lost in the haze of conflicting interpretations.

In this background the Committee reviewed the past and presented its recommendations having thrust on functional necessity for decentralisation of administration. It was called 'new approach to Panchayati Raj'. However, it may be pointed out that the Committee perceived the philosophy or approach to Panchayati Raj in somewhat narrow terms. The recommendations of Committee give a feeling that Panchayati Raj is a mere administrative contravene whose jurisdiction lies only in terms of rural development. It would have been more welcomed if Panchayati Raj or rural local government were regarded like its counter-parts at the State and Central levels as a system of government having a measure of autonomy in the matter of functioning and existing in its own right. The major recommendations of the Committee are two tier model of Panchayati Raj i.e., Zilla Parishad and Mandal Panchayat, direct election to both Zilla parishad and mandal panchayats, reservation

of seats for scheduled caste and scheduled tribes in proportion to their population and women (2 seats) who get the highest number of votes in Panchayati Raj elections. Apart from this, encouraging Committee system at both the levels, treating M.L.As and M.Ps as an outsider having no right to vote, formal participation of political parties in panchayati raj elections, Zilla parishad being the first point of decentralisation are some of the additional major recommendations.

In regard to functions of Panchayati Raj Institutions the Committee suggested that it should not be water-tight compartment, scope for frequent adjustments and readjustment of functions may be there. Apart from professionally qualified planners the district planning may involve peoples' representatives, creation of justice committee to provide social justice with chairman belonging to schedule caste/schedule tribes was a unique feature. It also recommended for the separate Panchayati Raj cadre for class III and class IV employees. More financial power to Panchayati Raj Institutions and more functional autonomy, holding of regular elections, creation of Nyaya panchayats etc. were also added in the recommendations.

It is difficult to disagree with the major recommendations of Ashok Mehta Committee. However, at that time itself and even now a question is being frequently asked whether the Central and the State governments are genuinely interested in making Panchayati Raj a success.

One demerit of Ashok Mehta Committee recommendation was that Gram Sabha was made a major casualty.

On the lines of the recommendations two State governments, Andhra Pradesh and Karnataka experimented with the model. However, it is painful to note that before the model could take its roots in the respective states, the changed State governments are attempting to dilute the model.

A Committee under the chairmanship of G.V.K. Rao was again set up to examine the administrative arrangements for rural development. Apart from other issues one of the important matters before the Committee was to study the role of P.R. bodies and their relationships with the proposed administrative set-up.

While examining the role and genesis of P.R. Institutions in historical perspective, the Committee looked into the factors which were responsible for the decline of their status.

With a view to activate the P.R.s the Committee gave several useful suggestions. District being the Prime Unit for overall planning in development, it suggested to strengthen the Zilla Parishad by introducing a system of sub-committees constituted on the basis of proportional representation. It further suggested even transferring of some of the planning functions at the district level. To achieve the ideals of participatory democracy, it envisaged holding the local elections regularly.

Yet a Committee was appointed under the chairmanship of eminent lawyer, L.M. Singhvi in 1986. On the recommendations of this Committee the 64th Constitutional Amendment Bill was introduced in Parliament. The Sarkaria Commission which submitted its report in 1988 on Central State relationship also emphasised restructuring the popular institutions at the grassroot level.

Looking into the functioning of different models of Panchayati Raj some of the issues emerged in different context. In the context of Karnataka, the question is whether it is a Cabinet form of government. or a Mayor in council form? What is the relationship between the chairman and the Chief Secretary? Whether the post of Chief Secretary is a misnomer? Whether there will be a party system within the Zilla Parishad?, and whether the chairman and vice-chairman have executive power? Moreover, the concept of four pillar State as proclaimed by the Karnataka Govt. seems to be a wishful thinking as it requires constitutional guarantee.

In the context of Andhra Pradesh it may be asked whether Mandal is too big a unit to be managed meaningfully? What should be the relationship between D.R.D.A. and Panchayati Raj Institutions? Would there be a conflict between Adhyaksha Zilla Parishad and D.M. on the one hand and Adhyaksha Zilla Parishad and Minister incharge of the concerned district on the other?

Though West Bengal model continued to be based on the old model of three tier and supposed to be the most successful experiment made so far. However, the interference of political parties and their dominance on the Panchayati Raj bodies leave a big question mark whether there is real participation of people in the functioning of Panchayati Raj Institutions?

Maharashtra and Gujarat model though supposed to be very good models yet they are not free from their own problems for example in Maharashtra the Zilla Parishad is most important. But its worth and significance lies in its linkages with cooperatives and State government thus giving it a status of a sub-capital rather than as the most important top most tier in Panchayati Raj.

In case of Gujarat in nut-shell it can be said that as the process of Panchayat decay are eclipsing the phenomena of panchayati development, the panchayati raj in Gujarat has lost its earlier thrust, clan and capacity to realise the goals envisaged for the Panchayati Raj as grass roots democracy and a new medium of development and social change.

In regard to the status and functioning of Panchayati Raj Institutions in remaining states has not shown any encouraging trend and in these States they virtually function on paper.

Whatever experiments we may have with Panchayati Raj Institutions and may adopt different models to strengthen these institutions, there remain to be some of the basic questions which have not yet been answered. They are as follows:

- (1) What does the concept of decentralisation mean in Indian context?
- (2) Is there any conflict between democracy, decentralisation and development as the three basic goals of decentralised democracy?
- (3) Should the institutions of democratic decentralisation be treated as development mechanism or a power mechanism providing a hierarchical chain of political offices through which the actual political power can be exercised?
- (4) What type of relationship should these institutions have with national and State political organisations?

In regard to the efficacy of Panchayati Raj Institutions certain questions may be raised viz. Do these patterns of centralised democracy involve the

decentralisation of political or administrative powers or do they merely lead to the transfer of certain governmental functions to the local authorities? How far the institutional organization and administrative arrangements been successful in promoting harmonious working relationships among the officials and elected members of political organs? Has there been adequate inter-institutional, inter-departmental coordination among different components of decentralised system to facilitate an effective planning and execution of development plans at local level?

The problems raised above indicate the crux of the realities being faced by P.R. Institutions and in this background the past experiments with PRIs and proposed 64th and 74th Constitutional amendments could be looked and examined.

However, inspite of subsequent introduction of the proposed constitutional bills in parliament the question still left to be answered are:

As to what extent the proposed amendment bills will help the P.R.Is in becoming an effective instrument of grass root democracy?

Whether the State Govts. will gladly allow the encroachment on their autonomy by the Centre?

Whether the powerful and dominant sections will allow the SC/STs and women to participate effectively in decision making process? However, these are none of the concerns of the present study. These problems may be looked into by having another independent study. As desired by the Department of Rural Development, Ministry of Agriculture, Govt. of India, our concern

here is to look into the existing P.R. Acts of eight States: (Andhra Pradesh, Bihar, Gujarat, Haryana, Karnataka, Madhya Pradesh, Uttar Pradesh and West Bengal), and based on the review, to suggest what changes are required in the existing Acts of the P.R.Is of select states.

#### **Objectives of the Study:**

In the broader historical and problematic framework the basic objectives of the present study are as under:

1. To review the existing statutory provisions in regard to Panchayati Raj of some selected states;
2. To examine the existing administrative structure in relation to Panchayati Raj Institutions; and
3. In view of the above objectives to suggest suitable amendments in existing Acts to bring them in conformity with the proposed Panchayati Raj Amendment Bills 1989 and 1990.

#### **Selection of the States of Study:**

After having a detailed discussion with the senior officials of the Department of Rural Development, Govt. of India, it was decided that the study may be conducted in following eight states: Andhra Pradesh, Bihar, Gujarat, Haryana, Karnataka, Madhya Pradesh, Uttar Pradesh and West Bengal.

#### **Methodology:**

For the present study we have adopted the method of historical research as also the field method. The primary source of information consists of the existing Acts of select states and proposed constitutional Amendment Bills (now lapsed). They have thoroughly

been reviewed, bottlenecks detected and analysed in the framework of the objectives of the study. However, to have a realistic exposure to the problem we decided to interview the Government officials at the State Secretariat level dealing with P.R. Departments as also the people's representatives and knowledgeable persons available on the spot in the State capitals for interaction. Some of their suggestions helped us to a great extent to shape the things in the present shape. Finally, a field diary was also maintained which proved invaluable at the timing of report writing. The data so collected, compiled, scrutinised and properly analysed forms the core of the study.

In the light of above framework the study has been coached in subsequent five chapters. While chapter II give a comparative analysis of two Constitutional Amendment Bills i.e. 64th & 74th, chapter III deals with the review of existing Panchayati Raj Acts of the select states. Chapter IV gives an account of officials' perception of the Panchayati Raj in their respective states. What the impression the Research Team gathered on the basis of field diary and method of observation has been analysed in chapter V. As usual chapter VI deals with the recommendations put forward by the Research Team for the Consideration of Government of India.

## CHAPTER - II

### CONSTITUTIONAL STATUS TO PANCHAYATI RAJ: COMPARATIVE ANALYSIS OF CONSTITUTION AMENDMENT BILLS

Constitution is a combination of legal norms of highest order in a country governed by the rule of Law. The normative standing of the constitutional commands are unquestionable because of its invoidability. However, the other varieties of norms emanating from the different sources like legislative authorities, subordinate legislations and individual administrative orders are always bound to conform to the constitutional requirements for their legality and validity. Therefore, the Constitution stands on the top of the hierarchical legal order. This legal truism seems to be one of the strong reasons behind the demand to constitutional status to the institutions of vital public importance. According Constitutional status to the Panchayati Raj Institutions (PRIs) seems to be encouraged by the above consideration.

In our constitutional scheme of Parliamentary democracy, the creation of Panchayati Raj Institutions and their organisation was, however, left to the general directives embodied in Article 40 of the Constitution. The Constitutional directive in Article 40 is that "the State shall take steps to organise Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as Units of Self-government". The inclusion of Article 40 as a Directive Principle of State Policy is in no way more than the accommodation of conceptual view point. Though it is not a mandatory and an integral operating part of the Constitution but it does manifest constitutional recognition of Village

Panchayats as units of self-government. True significance of Article 40 lies in its mandate that panchayats should be endowed with "such powers and authority as may be necessary to enable them to function as units of self-government." The emphasis of this Constitutional requirement is to strengthen PRIs, structurally and operationally, to function as an effective institutions of grass-roots democracy for development, welfare, freedom, liberty, justice and dignity of man. However, the past experiences in regard to the functioning of the PRIs established and regulated by the state legislations in different states have revealed that they have not been allowed, generally speaking, to function in consonance with the Constitutional spirit of self-government. It is evident from the statement of objects and reasons of both the Constitution Amendment Bills 64th & 74th of 1989 and 1990 that in many states Panchayati Raj Institutions have become weak and ineffective owing to the reasons, such as, the failure to hold regular and periodical elections, prolonged supersession, inadequate representation of the weaker sections like the Scheduled Castes, the Scheduled Tribes and Women, lack of financial resources and inadequate devolution of powers and responsibilities to them. To remedy these ills, *inter-alia*, both the constitution Amendment Bills were moved though not succeeded in taking the shape of the integral part of the Constitution. The objective of this chapter is to analyse the provisions of 64th and 74th Constitution Amendment Bills of 1989 and 1990 with a view to find out similarity and dissimilarity in approach of Legislative drafting for conferring constitutional status to PRIs.

#### SIXTY-FOURTH AMENDMENT BILL-1989

The Constitution Sixty-fourth Amendment Bill was introduced in the Lok Sabha in July 1989 to provide Constitutional status to Panchayati Raj institutions. The draft Bill makes the establishment of Panchayati Raj Institutions mandatory. This is the first attempt by any Government to confer a Constitutional status to the PRIs. In order to understand the merits and demerits of the bill, it is necessary to examine the provisions of the Bill. The Bill was intended to insert part IX in the Constitution dealing with Panchayats.

#### Constitution and Composition (243a, 243b)

The Amendment Bill provides for a uniform three tier structure of Panchayati Raj in every State at the village, intermediate and district level. However, panchayats at the intermediate level may not be constituted in a state having a population not exceeding twenty lakhs. The legislature of a state may by law make provision with respect to the composition of panchayats, subject to the provisions of this part. All the seats in the panchayats shall be filled by persons chosen by direct election. The Panchayats area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall so far as possible, be the same throughout the Panchayats area.

The legislature of a state may by law provide for a representation in such manner and subject to such condition as may be specified in such law regarding the Chairpersons of the panchayats at the village level. Similar is the case with the

chairperson of a Panchayat at the intermediate level and at the district level. The state legislature shall also decide regarding the representation of the members of the house of the people, and the members of the legislative assembly of the state representing constituencies wholly or partly of a panchayat area.

However, the Bill provides that the chairperson of a panchayat and other members of a panchayat chosen by direct election from territorial constituencies in the panchayat area shall alone have the right to vote in the meetings of the panchayats.

The chairperson of a panchayat at the village level shall be chosen by election in such manner as the legislature of a state may provide. At the intermediate level or the district level the chairperson shall be elected by, and from amongst the elected members. The Bill provides for the procedure for removal of the chairperson of a panchayat who has been elected by and from amongst the elected members of the panchayats, meaning that it shall not apply to the village level panchayat. The prescribed procedure is that no resolution by the panchayat for removing him from the office of the chairman shall be valid and effective unless such resolution has been passed by a majority of not less than two-thirds of such members present and voting.

#### **Reservation of Seats (243C)**

Reservation of seats have been made for the Scheduled Castes and the Scheduled Tribes in every panchayat in proportion to their population. However, where their population is not sufficient for reservation of any seats, one seat for the S.C or as the case may be, one seat for the S.T shall be reserved in the panchayat. Out of the total seats reserved for SC/ST 30% shall be reserved for women

belonging to these groups. In case only two seats are reserved, then one should be in favour of SC/ST women as the case may be. The State legislature may provide for the reservation of office of chairpersons (other than the reservation for women).

Women have also been given adequate reservation. As nearly as 30% of the total number of seats (including seats reserved for SC/ST women) to be filled by direct election in every panchayat, shall be reserved for women and allotted by rotation to different constituencies in a panchayat.

#### **Tenure (243D)**

The term of panchayat is to be of five years unless dissolved earlier under any law for the time - being in force. In case the panchayats are dissolved earlier, then fresh elections are to be held within six months from the date of dissolution. The reconstituted panchayat shall continue only for the remainder of the period for which the dissolved panchayat would have continued. Moreover, in case such period is less than six months it is not necessary to hold elections for constituting the panchayat.

#### **Powers and responsibilities (243E)**

The legislature of a State may endow the panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-Government and such law may contain provisions for the devolution of powers and responsibilities upon panchayats at the appropriate level.

#### **Taxes and Funds (243F)**

The Bill provides that the State legislature may by law authorize a panchayat to levy, collect and appropriate such taxes,

duties, tolls and fees levied and collected by the State Government for such purpose. It also provides for making such grants-in-aid to the panchayats from the consolidated fund of the State and for constituting of such funds for crediting all moneys received.

#### **Finance Commission (243G)**

The Government of a State within two years from the commencement of the Sixty-Fourth Amendment Act 1989 and thereafter at the expiration of every fifth year, Constitute a Finance Commission to review the financial position of the panchayats and to make recommendations to the Governor, as the principles which should govern the determination of taxes, tolls etc., distribution of finances between the state and the panchayats, the Grants-in-aid to the panchayats from the consolidated state funds and any other matter in the interest of sound finance of the panchayat.

It is for the State legislature to determine the qualifications which shall be required for appointment as members of the Commission and the manner in which they shall be selected. The Commission shall have such powers as the legislature of a State may confer on them. Every recommendation of the Finance Commission together with an explanatory memorandum as to the action taken thereon be laid before the legislature of the State. It is the duty of the Governor to ensure the same.

#### **Accounts and Audit (243H)**

The accounts of the panchayats shall be kept in such form as the Governor may, on the advice of the Comptroller and Auditor-General of India, prescribe. The Bill also provides that the Comptroller and Auditor-General shall determine the method of auditing of the panchayat accounts and such reports shall be

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submitted to the Governor of the State, who shall ensure that they are laid before the legislature of the State.

#### **Conduct of Elections (243I, 243J)**

The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in the Election Commission. However, the Bill provides that subject to the provisions of this part, the legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

#### **Jurisdiction (243K, 243L)**

The Bill states that the provisions of this part shall apply to the union territories. The President is empowered to direct that the provisions of this part shall not be applicable to union territories.

However, nothing in this part shall apply to the states of Nagaland, Meghalaya and Mizoram, Scheduled Areas referred to in clause(1), tribal Areas Clause (2) of the Article 244, the Hill Areas of Manipur, the Hill Areas of the District of Darjeeling in West Bengal. Notwithstanding anything in this Constitution the legislature of a state referred to in sub-clause(a) of clause (1), may by law extend this part to their state.

#### **Continuance of Existing Laws (243M)**

Any provision of any law relating to panchayats inforce immediately before the commencement of the Constitution 64th Amendment Act 1989 which is inconsistent with the provisions of this part shall continue to be inforce until amended or repealed or

until the expiration of one year from such commencement, which ever is earlier. All the panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by the State legislature.

Further the Amendment Bill enumerates the functions and powers to be devolved on the panchayats. These are put in the Eleventh Schedule of the Constitution and are listed.

#### SEVENTY-FOURTH AMENDMENT BILL 1990

After the defeat of the 64th Amendment Bill on the floor of the Rajya Sabha due to serious apprehensions regarding the timing and the intention of the Bill, the National Front Government introduced in the Lok Sabha on 4th September 1990 a new Amendment Bill known as the Constitution Seventy Fourth Amendment Bill 1990. The Bill was to insert a new part after part VIII of the Constitution. This part shall deal with the local authorities. However, as our study confines to only rural local Government we shall only deal with the Panchayats in our analysis.

#### **Gram Sabha (243A)**

The seventy-fourth Amendment Bill recognises the importance of a Gram Sabha. It states that a Gram Sabha may exercise such powers at the village level as the legislature of a State may provide by law.

#### **Constitution and composition (243B, 243C)**

In every State Panchayats at the village level shall be constituted in accordance with the provisions of this part. It is left to the Legislature of a State to provide for the Constitution of Panchayats at other levels. Subject to the provisions of this

part the State Legislature may make provisions with respect to the composition of panchayats. It also provides that all seats in a panchayat at the village level and not less than fifty percent of the seats in a panchayat at any other level if any, shall be filled by persons chosen by direct elections from territorial constituencies in the Panchayat area.

The Legislature of State may provide for the representation in such manner and subject to such conditions as may be specified, of the chairpersons of the panchayats at the village level or of the panchayat, if any, at the other level in the panchayat at the immediately next higher level. The Chairperson of a panchayat shall be chosen by election in such manner as may be prescribed by the legislature of a State.

#### **Reservation of Seats (243G)**

In every panchayat seats shall be reserved for the Scheduled Castes and the Scheduled Tribes and the number of seats so reserved shall be in proportion to their population. The Bill further provides that not less than one-third (including seats reserved for SC/ST women) of the total number of seats to be filled by election in every panchayat shall be reserved for women and allotted by rotation to different Constituencies in the Panchayat. The legislature of a State may make provisions for reservation of seats in any panchayat in favour of any backward classes of citizens.

#### **Powers and authority (243H)**

Subject to the provisions of this Constitution, the legislature of a state may by law endow the panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-Government.

**Tenure (243 I)**

Every panchayat, unless dissolved under any law for the time being in force shall continue for five years and the expiration of the said period of five years shall operate as a dissolution of that panchayat. Where a panchayat is dissolved before the expiration of its duration an election to constitute the panchayat shall be completed within six months from the date of such dissolution. If the remainder of the period for which the dissolved panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause to constitute the panchayat. The reconstituted panchayat shall continue only for the remainder of the period for which the dissolved panchayat would have continued had it not been so dissolved.

**Finance Commission (243J)**

From the commencement of the Constitution seventy-fourth Amendment Act 1990, within a year and thereafter at the expiration of every fifth year a Finance Commission shall be constituted to review the financial position of the panchayat and to make recommendation to the Government of the state as to the principles which should govern the distribution of finances between the State and the panchayat, the determination of taxes, duties, tolls and fees, the grants-in-aid to the panchayat from the consolidated fund of the state and any other matter referred to the Finance Commission by the Government of the State in the interest of sound finance of the Panchayats.

The legislature of a State may provide for the composition of the Commission, the qualifications for appointment as members and the manner in which they should be selected. The Commission shall

determine their procedure and shall have such powers in the performance of their function as the legislature of a State may confer on them. The recommendation made by the Finance Commission shall be laid by the Government of the State before the legislature of the State together with an explanatory memorandum as to the action taken.

#### **Conduct of Elections (243K)**

The legislature of a State may make provisions with respect to all matters relating to, or in connection with elections to the panchayats subject to the provisions of this constitution.

#### **Jurisdiction (243L, 243M)**

The provisions of this part shall apply to the Union Territories and the President may direct that the provisions of this part shall not apply to any Union Territory. The Bill further states that nothing in this part shall apply to the Scheduled Areas referred to in clause (1) and the tribal areas referred to in clause(2) of Article 244. Further no part shall apply to the states of Nagaland, Meghalaya and Mizoram and the Hill areas of Manipur and of Darjeeling in West Bengal. The legislature of state may extend this part in so far as it relates to panchayats to that state except the areas referred to in clause(1). The Parliament may extend the provisions of this part to the Scheduled Areas and the Tribal Areas referred to in clause (1).

#### **Continuance of Existing Laws (243N)**

Any provision of any law relating to panchayats inforce in a State immediately before the commencement of the Constitution Seventy-Fourth Amendment Act 1990 which is inconsistent with the provisions of this part shall continue to be inforce until the

expiration of one year from such commencement or until the expiration of the longest duration of the panchayat at any level existing in the state immediately before such commencement, whichever is later. All the panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the legislative assembly of the state.

#### **Disqualifications (243O)**

A person shall be disqualified for being chosen as and for being a member of the panchayat or a Committee if he holds office of profit under the Government, local bodies or a Committee. He is also liable for disqualification if he is of unsound mind, an undischarged insolvent, not a citizen of India and if disqualified as to under any law. In case of dispute the matter shall be referred to the Governor.

#### **Interference by Courts (243P)**

The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies made or purporting to be made under Article 243 K shall not be called in question in any court. Secondly, no election to any panchayat or Committee shall be called in question except by an election petition presented to such authority and in such manner as may be provided by the legislature of a State.

### **COMPARATIVE ANALYSIS OF THE BILLS**

In the light of the experience in the last forty years and in view of the shortcomings which have been noticed, it has been recognised that there is a need to enshrine in the constitution a

chapter dealing with the panchayats. The proposals contained in the Constitution 64th and 74th Amendment Bills are important for the development of the Indian polity and a dispassionate analysis of the implications of the Bills is called for. At present the panchayats have not been able to develop as responsive peoples bodies due to a variety of reasons including absence of regular elections, prolonged supersession, inadequate representation of weaker sections, insufficient devolution of power and lack of financial resources. Here we have examined the provisions of the Bills.

#### 1. Gram Sabha

The 74th Amendment Bill has restored the pivotal role of Gram Sabhas. It has been recognised that it is the primary source of democratic power in a village. The Bill provides for a Gram Sabha which may exercise such powers at the village level as the legislature of state may, by law provide. On the other hand the 64th Bill does not mention about Gram Sabha.

#### 2. Constitution of Panchayats

The 64th Bill makes it obligatory for all states to establish a three tier system of panchayats at the village, Intermediate and district level. However, states having a population of less than twenty lakhs would not be obliged to establish panchayats at the intermediate level. Whereas the 74th Bill provides for a single tier of panchayats at the village level to be constituted in every state and the legislature of a state may by law provide for the constitution of panchayats at other level or levels.

### 3. Composition of Panchayats

According to the 64th Bill all the seats in a panchayat shall be filled by persons chosen by direct election from territorial constituencies in the panchayat area. However the 74th Bill provides that all the seats in a panchayat at the village level and not less than fifty percent of the seats in a panchayat at any other level, if any, shall be filled by persons chosen by direct election from territorial constituencies in the panchayat area.

### 4. Reservation of Seats

Both the Bills provide for identical reservation of seats for the SC/ST candidates. They differ on the percentage of seats to be reserved for women candidates. The 64th bill reserves as nearly as thirty per cent of the total seats to be filled by direct elections in every panchayat for women and allotted by rotation to different constituencies in a panchayat. The 74th Bill provides that not less than 1/3rd of the total number of seats to be filled by election in every panchayat shall be reserved for women and allotted by rotation to different constitutencies in a panchayat.

According to the provisions of the 74th Bill state legislature can reserve seats for Backward Classes in a panchayat.

### 5. Duration of Panchayats

Both the Bills provide for a duration (term) of five years for the panchayats. The election to constitute a panchayat when dissolved shall be held within a period of six months; the reconstituted panchayat shall function for the remaining period that the dissolved panchayat would have continued.

#### 6. Finance Commission

Finance Commission has been provided in both the Bills but with a difference. The 64th Bill provides that the Governor of a state shall constitute a finance commission to review the financial position of the panchayats, and to make recommendations to the Governor who shall cause every recommendation made by the finance commission together with an explanatory note thereon to be laid before the legislature of the state. On the other hand the 74th Bill states that there shall be a finance commission in every state to make recommendations to the Government of the state and such recommendations shall be laid by the Government of the state before the legislature of a state together with an explanatory note.

#### 7. Audit of Accounts

The 64th bill provides for the form of audit of panchayat accounts. The bill states that the accounts of the panchayats shall be kept in such form as the Governor may, on the advice of the Comptroller and Auditor-General of India prescribe and the reports shall be submitted to the Governor of the state who shall cause them to be laid before the legislature of the state. Where as the 74th Bill does not provide the form or manner of audit of panchayat accounts.

#### 8. Conduct of Elections

According to the provisions of the 64th Bill the superintendence, duration and control of the preparation of electoral rolls for, and the conduct of, all elections to the panchayats shall be vested in the election Commission where as the 74th Bill states that the legislature of a state may make provisions

with respect to all matters relating to, or in connection with elections to the panchayats. It does not provide for an election commission.

#### 9. Disqualification of Members

The 74th Bill provides for the grounds on which a person shall be disqualified for being chosen as a member of the panchayat. This provision does not exist in the 64th Bill.

#### 10. Interference by Courts

The 74th Bill provides that the validity of any law relating to the delimitation of seats or the allotment of seats to such constituencies shall not be called in question in any court. The 64th Bill does not bar the courts from interference.

Thus we can conclude that the 64th Amendment Bill had sought to strengthen centralisation through holding PRI elections under the supervision of the Central Election Commission, auditing of PRI accounts by the Comptroller and Auditor General. It has been apprehended that the Central Government through Governor as its representative intended to have control over Panchayati Raj Institutions.

On the other hand the 74th Amendment Bill does not intend the Centre's intervention in the areas connected with panchayats. Each state will appoint its own election commission to supervise elections. The Finance Commission will also be constituted by the states. Thus the federal structure of the constitution has been maintained and strengthened. Besides, the plenary legislative power of the state legislatures under item 5 of State List of Seventh Schedule has been given due importance and respect in the interest of State autonomy.

### An Overview

To give meaning to the constitutional message of the Directive Principles of the State Policy contained under Article 40, that Panchayats should be endowed with "such powers and authority as may be necessary to enable them to function as units of self - government" the local self - government has been kept under entry 5 of State List of Seventh Schedule. Meaning thereby, the legislative competence of the state legislature has well been recognised for development of Panchayati Raj Institutions to operate as institutions of self-governments, at the grass-root level. The approach of the State Governments, as revealed at operational level seems to be far from proclaimed constitutional ideal.

To strengthen the Panchayati Raj Institutions to function as effective instrument of democracy and development thereby as instrument of social transformation has been the subject matter of discussions at the national as well as the state level. Some states like Karnataka, Andhra Pradesh, Gujarat etc. have enacted legislations with the idea to devolve more financial and administrative powers. However the approach in all the states is not similar. The idea to confer constitutional status to Panchayati Raj Institutions to provide stability and uniformity was also discussed and debated. The recommendations of the Singhvi Committee (1986) was in favour of conferring constitutional status to it. However the Sarkaria Commission (1988) on centre-state relations has said" to rectify this dysfunctioning of the local self governing bodies it is necessary to ensure by legal provisions analogous to those in Article 172 and 174 of the constitution, that the elections to and sessions of Zilla Parishads and Municipal Corporations are

held regularly and these institutions do not remain suspended for long periods. The power of enacting such a law vests under Entry 5 List II exclusively with states. Uniformity in these aspects of the law throughout the territory of India is essential. The uniformity can be secured by adopting, in the following order of preference, any of the alternatives given below:-

- (i) By laws with respect to this matter made by all the state legislature in accordance with a model bill prepared on the basis of consensus at the forum of the Inter-state council (Inter-Governmental Council, recommended by us to be established under Article 263).
- (ii) By a law on this subject made by Parliament under Article 252 (1) with the consent of the legislatures of all the states.
- (iii) By a Parliamentary law uniformly applicable throughout India containing provisions analogous to Article 172 and 174 of the Constitution.

Adoption of alternative (i) or (ii) will not require any amendment of the constitution. However as a condition precedent for adopting alternative (iii), those aspects of the matter which are analogous to Article 172 & 174 will have to be carved out of the ambit to Entry 5, List II and transposed as a separate item to List III.

We recommended that in order to ensure that elections to sessions of Zilla Parishad and Municipal Corporations are held regularly and these institutions do not remain superseded for long periods, any one of the alternatives (i), (ii) and (iii) be pursued

in the order set out above. Recourse to alternative (iii) may be had only as a last resort when attempts to follow alternatives (i) and (ii) fail or are otherwise found unfeasible" (Report of Commission on Centre-State Relations, Part I, Page 544).

A glance at the discussion on the provisions of the 64th Bill in the Lok Sabha reveals mainly two lines of arguments. First, that the Panchayati Raj Institutions should be conferred constitutional status. The proponents of this idea advocate the concept of 3 tiers of federal polity, and suggest that Panchayat Raj should be brought under the constitution. Another line of argument with the same purpose, is that the "state" defined under Article 12 of the Constitution includes, *inter-alia* the Union Parliament, therefore the Parliament is under Constitutional obligation to confer constitutional status to Panchayati Raj Institutions. The second line of argument is that it will affect the autonomy of the states and finally destroy the federal structure of the Constitution. To strengthen the second line of argument some of the Parliamentarians have made *Kesavananda Bharti* AIR 1973 SC 1461, a judgement of the Supreme Court, a basis. In *Kesavananda Bharti*, federal structure, *inter alia*, was considered one of the basic features of the Constitution and placed outside the purview of the amending powers of the Parliament under Article 368.

Besides, these diagonally opposite view points, there were other political and factual factors which made foundered the passing of the 64th Bill. The factors may be summarised as below:-

1. The Bill was introduced at the fag end of the tenure of the Lok Sabha. The choice of the timing for introduction of the Bill raised eyebrows and genuineness of the effort.

2. The Bill was introduced amidst the controversy of allegation of corruption against public men occupying high positions.
3. It was introduced when the political party piloting it was not having requisite majority in the Rajya Sabha.
4. It was introduced without any effort to evolve national consensus. Rather writing letters by the P.M. to the Gram Pradhans and providing central assistance (J.R.Y.) to them has further aggravated the situation of distrust and a climate of suspicion was created. The slogan of the then ruling political party "Power to the people" was understood by a considerable number of people as a means to acquire "power to the party".

It may therefore be concluded that the fate of 64th Bill had already been fettered, even before its foundering. The 74th Bill died its natural death since 9th Lok Sabha was dissolved on the 13th March 1991. However, the Panchayati Raj as a technique of decentralisation for administrative reforms has prominently appeared in the election manifestoes of all most all political parties during the election of 10th Lok Sabha. There is strong possibility that the issue of conferring Constitutional Status to Panchayati Raj Institutions will receive a top priority on the national agenda because the Congress party, the originator of 64th Constitution Amendment Bill, has occupied the reign of power at the centre.

## CHAPTER - III

### PANCHAYATI RAJ: LEGISLATIVE FRAMEWORK

Legislation by the Legislature within its Legislative Competence is one of the major steps in translating the Constitutional aspirations. The Legislative provisions, to some extent, manifest political and administrative commitment, sensitivity and enthusiasm. Panchayati Raj as a subject of Legislation in the Constitution comes under Entry 5 of List-II of the VII schedule wherein the Legislative jurisdiction of the Legislatures of States have been recognised. Panchayati Raj Acts, therefore, are the product of state Legislatures. The object of this chapter is to give a comparative, comprehensive and compact account of the major basic features of the Panchayati Raj System as obtain in the States under study and also to present salient features of individual state Acts. The Panchayati Raj Acts operating in different states are as follows:

- |                   |   |  |
|-------------------|---|--|
| 1. Andhra Pradesh | - | A.P. Gram Panchayat Act 1964                                   |
|                   | - | A.P. Mandals Praja Parishad and Zilla Praja Parishad Act 1986. |
| 2. Bihar          | - | Bihar Panchayat Raj Act, 1947                                  |
|                   | - | Bihar Panchayat Samities and Zilla Parishad Act 1961.          |
| 3. Gujarat        | - | Gujarat Panchayats Act 1961                                    |
| 4. Haryana        | - | Punjab Gram Panchayats Act 1952                                |
|                   | - | Punjab Panchayat Samities and Zilla Parishad Act 1961.         |

- |                   |   |   |
|-------------------|---|---|
| 5. Karnataka      | - | Karnataka Zila Parishads, Taluk Panchayat Samities, Mandal Panchayat and Nyay Panchayats Act, 1983. |
| 6. Madhya Pradesh | - | M.P. Panchayat Raj Act, 1990  |
| 7. Uttar Pradesh  | - | U.P. Panchayat Raj Act 1947.  |
|                   | - | U.P. Kshettra Samities and Zila Parishad Act, 1961.   |
| 8. West Bengal    | - | West Bengal Panchayat Act, 1973.  |

### COMPARATIVE ANALYSIS

#### 1. Structure

The states of Andhra Pradesh, Bihar, Karnataka, Madhya Pradesh, Uttar Pradesh, and West Bengal have a three tier Panchayat structures at the Village, Intermediate and District level. Haryana has a two tier Panchayat structure at the Village and the Intermediate level. On the other hand Gujarat has a four tier model at the Village, Nagar, Intermediate and District level.

#### 2. Gram Sabha

Gram Sabha is provided in all the Panchayati Raj Acts of the states except that of West Bengal. However, powers, functions and the duties assigned to the Gram Sabha varies. There is no uniform requirement for holding the number of meetings of the Gram Sabha. Since Gram Sabha is the unit structure of local self government its role and effectiveness needs to be recognised.

#### 3. Elections

Elections under the state supervision is held in each state to fill the seats in the Panchayats. Madhya Pradesh, Andhra Pradesh and West Bengal allows the participation of the political parties in the elections. However, it is only Madhya Pradesh where the Gram

Panchayat elections are held on a party basis and is direct. In other states the Pradhan or the Sarpanch is chosen by direct election where as the other office bearers at the intermediate and district level are chosen through an indirect election. However, Madhya Pradesh Act provides for direct elections at all the three levels.

#### 4. Term of Office

The Panchayati Raj Acts of Andhra Pradesh, Gujarat, Haryana, Karnataka, Madhya Pradesh, Uttar Pradesh and Bihar provide for a five years term. The term of Panchayats in West Bengal is of four years.

#### 5. NYAYA PANCHAYATS

In order to settle petty disputes at the village level Nayaya Panchayats exist in the states of Uttar Pradesh, Gujarat, Andhra Pradesh, West Bengal and Karnataka. Gram Kutchery in Bihar, Adalati Panchayat in Haryana and Conciliation Boards in Madhya Pradesh.

#### 6. Reservation

Reservation is provided to ensure participation of SC/ST and women in all the states. Reservation to SC/ST candidates is in proportion to their total population. The Act of Karnataka provides for 25% of the seats to be reserved for women. Karnataka and Andhra Pradesh also provide reservations to the members of Backward Communities. Reservations of seats for women is provided in all the Panchayat Acts. To ensure their participation if they are not represented in the Panchayats women candidates are to be coopted thus ensuring their presence in the panchayats. Of late, Bihar has provided for a 30% reservation of seats to women by way of amending its Act in January 1990.

## 7. Funds

In regard to creating funds for Panchayats, as per the provisions, in all the eight select states they should be mobilised through various ways such as donations, contributions, tolls, levies, taxes and could be utilised towards various activities taken up by the Panchayats.

## 8. Government Powers

The Government has the power to suspend, supersede or dissolve the Panchayats after giving due opportunity for explanation. However, in practice these norms are not maintained in some of the states. The life of Panchayati Raj Institutions depend on the whims and fancies of the state Governments.

## 9. Budget and Meeting

The Panchayat Acts of the select states provide that the Panchayats shall prepare the Budget of the income and expenditure for the next financial year and forward it to the next higher tier for approval. As regards meetings, the Acts of Uttar Pradesh, Gujarat, Andhra Pradesh, Bihar and Karnataka provide for at least two meetings in a year. The Acts of Haryana, Madhya Pradesh and West Bengal provide that atleast one meeting shall be held every month. A line may be added that the provisions in Haryana, Madhya Pradesh and West Bengal are more promising in comparision to other states. However, the realities are different from the provisions.

## 10. Powers and Functions

The distribution of powers and functions among the Panchayats is quite clear in all the Acts. The states like Karnataka, Gujarat, Madhya Pradesh, West Bengal and Andhra Pradesh have given certain

additional powers to the Panchayats in matter relating to development.

#### 11. Audit of Accounts

To check corruption and misuse of funds all the Panchayat Acts provide for the audit of panchayat accounts by the state machinery.

#### 12. Finance Commission

Karnataka and Bihar provides for a Finance Commission to regulate the distribution of funds between the State Government and the Panchayats and between the Panchayats themselves.

#### 13. Election Commission

Bihar amended Panchayati Raj Act in 1990 and incorporated the provision of a Election Commission under state supervision to conduct Panchayat elections and perform other functions related with Panchayat elections.

It is to be noted that Bihar has made needful amendments in its Act as per the provisions of the 64th Constitutional Amendment Bill 1989. While amending the Act in 1990 the state has taken special care in preserving its autonomy and keeping Panchayati Raj Institutions exclusively within its planery powers.

## ANDHRA PRADESH GRAM PANCHAYATS ACT 1964

## Title

S.1. This Act may be called the Andhra Pradesh Gram Panchayats Act 1964.

## S.3 Constitution, Administration and Control

The Commission may, by notification and in accordance with the rules made by the Government in this behalf, declare any revenue village or any part of a revenue Mandal to be a village for the purpose of this Act and Specify the area if any.

## S.4 Constitution of Gram Panchayat

- (1) A Gram Panchayat shall be deemed to have been constituted for a village on the date of publication of the notification under section 3 in respect of that village.
- (2) Subject to the provisions of this Act, the administration of the village shall vest in the Gram Panchayat.

## S.4-A Special Grade Gram Panchayat

Every local area with a population of less than 25 thousand and cease to be a municipality under the relevant law shall be deemed to have been declared as a village. For every such village a Special Grade Gram Panchayat shall be constituted.

## S.5 Township

The Government may declare, by a notification in the Andhra Pradesh Gazette, a village or any other area to be a township.

## S.6 Gram Sabha

- (1) There shall come into existence a Gram Sabha for every village on the date of Publication of notification.

- (2) Shall consist of all persons whose names are included in the electoral roll of the Gram Panchayat.
- (3) The Gram Sabha shall meet at least twice in a year.
- (4) Every meeting of the Gram Sabha shall be presided over by the Sarpanch or in his absence the Up-Sarpanch.

#### S.9 Reservation of Seats

In every Gram Panchayat, out of the total strength there of,

- (1) Two seats, if the total strength is nine or less, three, seats if the total strength exceeds nine but does not exceed fifteen, four seats if the total strength exceeds fifteen for women.
- (2) Where the combined population at the last census of the SC/ST in the village is 25, one seat for SC or ST whose ever number is greater. Subject to condition that atleast one seat shall be reserved for SC/ST.

#### S.11 Term of Office of Members

The term of Office of members elected at ordinary elections shall be five years beginning and expiring at noon, extendable by three years.

#### S.12 Election and Term of Office of Sarpanch

- (1) There shall be a sarpanch for every Gram Panchayat. The Sarpanch shall be elected in the prescribed manner from among themselves.
- (2) The term of office of the Sarpanch who is elected at an ordinary election shall be of five years.
- (3) The Sarpanch shall be an ex-officio member of the Gram Panchayat and shall be entitled to vote at meetings of the Gram Panchayat.

## 12-A Election of UP-Sarpanch

For every Gram Panchayat, one of the members shall be elected to be up-sarpanch by the gram panchayat in the prescribed manner.

### S.19 Disqualification

S.20 Section 19 deals with disqualification of candidates and Section 20 of members.

### S.23 Resignation of Member, Up-Sarpanch or Sarpanch

- (1) Any member or the up-sarpanch may resign his office by giving a notice in writing to the Mandal Development officer and in other cases to the Divisional Panchayat Officer.
- (2) The Sarpanch may resign by giving a notice in writing to the Gram Panchayat.

### S.25 Powers and Functions of the Sarpanch

The Sarpanch shall -

- (1) Make arrangements for the election of the up-sarpanch within one month from the date of occurrence of the vacancy.
- (2) Convene the meetings of the Gram Panchayat and the Gram Sabha.
- (3) Have full access to the records of the Gram Panchayat.

### S.26 Devolution and Delegation of Sarpanch's, Powers and Function and Filling of Vacancies in the Office of Sarpanch.

When the office of Sarpanch is vacant the Up-Sarpanch shall exercise the powers and perform the functions of the sarpanch.

### S.30 Appointment of Executive Officers for Certain Gram Panchayats

- (1) A whole time or a part time executive officer shall be appointed by the commissioner for any Gram Panchayat or for any group of contiguous Gram Panchayats.
- (2) The Commissioner may notify a gram panchayat which is entitled to have whole time executive officer to such a notified Gram Panchayat.

### S.31 Functions of executive Officers and Authority

The executive authority shall -

- (1) Be responsible for implementing the resolutions of the Gram Panchayat.
- (2) Control all the officers and servants of the Gram Panchayat.

### S.33 Emergency Powers of Sarpanch

In case of emergency the sarpanch may take any action if he feels it is in public interest.

### S.36 Officers and Servants of Gram Panchayat

Subject to such rules as may be made under proviso to Article 309 of the Constitution, the commissioner shall fix and may alter the number, designations and grades of and the salaries, fees, and allowances payable to the officers and servants of every Gram Panchayat.

### S.37 Presiding at meetings

Every meeting of a Gram Panchayat shall be presided over by the sarpanch, in his absence by the up-sarpanch and in the absence of both, by a member chosen by the members to preside.

### S.39 Power to Call for Records

A Gram Panchayat or a committee there of may, at any of its meetings, require the executive authority to furnish any document in his custody.

### S.40 Functional Committee

For every Gram Panchayat there shall be constituted functional committees respectively for (1) Agriculture (2) Public Health & Sanitation (3) Communications. In addition the Gram Panchayat with the approval of the Commissioner constitute one or more committees.

### S.41 Proceedings of Gram Panchayats & Committees

- (1) The proceedings of every Gram Panchayat and of all Committees shall be governed by the rules contained in Schedule I.
- (2) The Commissioner shall have power to add or to omit or to alter any regulations submitted for his approval.

### S.43 Administration Report

Every Gram Panchayat shall submit to the Panchayat Samiti a report on its administration for each year as soon as may be after the close of such year. The report shall be prepared by the executive authority and the Gram Panchayat shall consider it and forward the same to the Panchayat Samiti.

### S.45 Power of Inspecting and superintending Officers and of the Government

- (1) The Commissioner shall supervise the administration of Gram Panchayats in the state and shall also exercise and perform the powers and functions vested in him.

- (2) The Government may appoint such other officers as they may consider necessary for the purpose of inspecting or superintending the operations of all or any of the Gram Panchayat.
- (3) The Government may appoint District Panchayat Officer, Divisional Panchayat Officers and Extension Officers (Panchayat).
- (4) The District Panchayat Officers, the Divisional Panchayat Officers and the Extension Officers shall exercise such powers and perform such functions as may be prescribed or may be delegated to them under the Act.

**S.46 Power to Suspend or Cancel Resolution etc. Under this Act**

The Commissioner may by order in writing -

- (1) Suspend or cancel any resolution passed, order issued or licence or permission granted.
- (2) Prohibit the doing of any act which is about to be done or is being done in his opinion.
- (3) Such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised.

**S.47 Emergency Powers of Commissioner and District Collector**

Subject to such control as may be prescribed, the Commissioner or the District Collector in case of emergency direct or provide for the execution of any work or the doing of any act which a Gram Panchayat or Executive Authority is empowered to execute or do.

#### S.50 Removal of Sarpanch, UP-Sarpanch or Members

The Commissioner may by notification and with effect from a date to be specified therein, remove any sarpanch or up-sarpanch who, in his opinion wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, by-laws, regulations or lawful order or abuses the powers vested in him.

#### S.51 Motion of No-Confidence in Case of UP-Sarpanch

- (1) A motion expressing want of confidence in the Up-Sarpanch may be made in accordance with the procedure laid down.
- (2) A written notice of intention to make the motion signed by not less than 1/2 of the total strength of the Gram Panchayat delivered in person by any two of the members signing the notice to the Revenue Divisional Officer.

#### S.52 Dissolution and Suspension of Gram Panchayat

If in the opinion of the Commissioner, a Gram Panchayat is not competent to perform or persistently makes default in performing the functions imposed on it by law or exceeds or abuses its powers he may by notification -

- (1) Direct that the Gram Panchayat be dissolved with effect from a specified date and reconstituted either immediately or with effect from another specified date.
- (2) Suspend the Gram Panchayat for a period not exceeding one year from a specified date.

But the commissioner may in extra ordinary circumstances extend the period beyond one year but the total period shall not exceed one and half years.

### POWERS, FUNCTIONS AND PROPERTY OF GRAM PANCHAYATS

#### S.54 Duty of Gram Panchayats to Provide for Certain Matters

- (1) Construction, repair and maintenance of all buildings and of all public roads vested in the Gram Panchayat.
- (2) Lighting of public places and roads.
- (3) Construction of drains and their maintenance.
- (4) Preventive and remedial measures connected with any epidemic.
- (5) Sinking and repairing of wells.

#### S.55 Power of Gram Panchayat to provide for Certain Other Matters

- (1) Construction and maintenance of Dharmasalas, Sarais and rest-houses.
- (2) Planting and preservation of Groves and trees.
- (3) Promotion and development of primary education.
- (4) Laying and maintenance of parks.

### TAXATION AND FINANCE

#### S.69 Taxes Leviable by Gram Panchayats

A Gram Panchayat shall levy in the village -

- (1) House Tax
- (2) Tax on profession
- (3) Other taxes as notified by the Government.

Subject to such rules as may be prescribed the Gram Panchayat may also levy in the village.

- (1) Vehicle tax
- (2) Tax on agricultural land
- (3) Fees for use of commune land
- (4) Land cess

#### S.79 Gram Panchayat Fund

- (1) All moneys received by the gram panchayat shall constitute a fund called the "Gram Panchayat Fund" and shall be applied and disposed of in accordance with the provisions of this Act.
- (2) Subject to the provisions of Sub-Section (1) the receipts which shall be credited to the gram panchayat fund shall include -

House tax, profession tax etc.  
The proceeds of duty collected  
Money received from Government

#### S.80 Expenditure from Gram Panchayat Fund

The purposes to which the gram panchayat fund may be applied include all objects expressly declared obligatory or discretionary by this Act.

#### S.81 Preparation and Sanction of Budget

- (1) The executive authority shall in each year not later than 15th november, frame and place before the Gram Panchayat a budget showing the probable receipts and expenditure during the following year and the Gram Panchayat shall within one month of the date on which the budget is placed before it sanction the budget with such modifications as it thinks fit.
- (2) The budget as so sanctioned shall be forwarded by the executive authority to the panchayat samiti.

## CIVIL AND CRIMINAL JUSTICE

## NYAYA PANCHAYATS

## S.165 Establishment

Subject to such rules as may be prescribed the District Collector may for the administration of civil and criminal justice, by notification, establish a Nyaya Panchayat for a group of not more than five and not less than three villages.

## S.166 Constitution

Every Nyaya Panchayat shall consist of the following members:

- (1) One member to be elected in the prescribed manner by the gram panchayat of every village in the group of villages.
  - (a) The members of the Gram Panchayat other than the sarpanch
  - (b) Other persons residing in the village who are not disqualified to be members of a Gram Panchayat.
- (2) One member representing SC/St , one women member to be elected collectively by the members of all the gram panchayats in such group.

## S.167 Term of Office of Members

The term of office of members of a Nyaya Panchayat shall be three years commencing from the date on which its Nyaya Adhyaksha is elected.

## S.168 Election of Nyaya Adhyaksha and Nyaya Up-Adhyaksha

The members of the Nyaya Panchayat shall at a meeting for the purpose, elect from amongst themselves, one person to be Nyaya Adhyaksha and another to be Nyaya Upadhyaksha.

**S.169 Resignation**

- (1) A member or the office bearers may resign by giving notice in writing to the Nyaya Adhyaksha.
- (2) The Nyaya Adhyaksha may resign his office by giving notice to Nyaya Panchayat.

**S.170 Suspension or Removal**

The District Munsiff having jurisdiction may suspend or remove from office, the Nyaya Adhyaksha, Upadhyaksha or a member of the Nyaya Panchayat for incapacity, neglect of duty or misconduct.

**S.173 Presiding at Meeting**

Every Nyaya Panchayat shall be presided over by the Nyaya Adhyaksha and in his absence the upadhyaksha.

**S.174 Quorum**

Three members of the Nyaya Panchayat shall constitute a quorum and the decision of the majority shall be the decision of the Nyaya Panchayat.

**THE ANDHRA PRADESH MANDALA PRAJA PARISHADS AND ZILLA PRAJA  
PARISHADS ACT, 1986**

**S.1 Title**

This Act may be called the Andhra Pradesh Mandala Praja Parishads, Zilla Praja Parishads and Zilla Abhivrudhi, Sameeksha Mandals Act 1986.

**S.3 Constitution of Mandala Praja Parishads**

The Government may, by Notification from time to time and with effect on and from such date as may be specified therein constitute a Mandala Praja Parishad for each Mandal.

#### S.4 Composition of Mandala Praja Parishads

Every Mandala Praja Parishad shall consist of the following members namely -

- (1) The Sarpanch of every Gram Panchayat in the Mandal ex-officio
- (2) The M.L.A. of the state representing a constituency which comprises the mandal.
- (3) M.P. (Lok Sabha) representing a constituency which comprises the mandal as the Government may by order specify.
- (4) M.L.C. of the states.
- (5) One person belonging to the minorities whether based on religion or language to be elected as member in the prescribed manner by the president and the members specified.
- (6) No person shall be entitled to be a member of more than one mandala praja parishad at a time.

#### S.5 Election and Term of Office of President

- (1) There shall be a president of each Mandal Praja Parishad.
- (2) Subject to the provisions of section-9, the president shall be elected in the prescribed manner by the persons who are registered voters in the mandal from among themselves. The term shall be for five years.

#### Reservation of Seats for Office of Presidents (S.5(2)(b))

- (1) 6% of the total seats will be reserved for S.T.
- (2) 15% of the total seats will be reserved for S.C.
- (3) 9% of the total seats will be reserved for women.

- (4) 20% of the total seats will be reserved for Backward classes. These reservations shall be in rotation from term to term.

**S.6 Election and Term of Office of the vice President of Mandala Praja Parishad**

- (1) There shall be a Vice-President for each Mandala Praja Parishad who shall be elected by the members of the Mandala Praja Parishad from among themselves.
- (2) The term of office of the Vice-President shall be five years from the date appointed by the election authority for the first meeting of the Mandala Praja Parishad after the ordinary election.

**S.8 Term of Office of Member of a Mandala Praja Parishad**

- (1) An ex-officio member specified in clause (1) of Sub-Section (1) of section 4 shall hold office so long as he continues to be the sarpanch of the gram panchayat which he represents.
- (2) A member elected at an ordinary election under clause (v) of sub-section (1) of Section (4) shall hold office for a term of five years from the date appointed by the election authority for the first meeting of the Mandala Praja Parishad after the said ordinary election.

**S.9 Qualification of candidates for Election**

No person shall be eligible for election as member or president of a mandala praja parishad or chairman of a Zilla Parishad unless he has completed the age of 21 years.

#### S.10 Disqualification

Subject to the provisions of this Act a person shall be disqualified to become a member of the Mandala Praja Parishad if such person, on the date fixed for scrutiny of nominations has -

- (1) Been sentenced by a criminal court to imprisonment for a period of more than six months for any offence involving moral delinquency.
- (2) Has been sentenced to imprisonment for an offence under the protection of Civil Rights Act 1955.
- (3) Adjudicated as an insolvent.
- (4) Is an paid servant of the State or Central Government, etc.

#### S.12 On grounds of defection

#### S.18 Resignation of President, Vice-President or Member

The President, the Vice-President or a member specified in clause (1) of clause (v) of Sub-Section 4 may resign his office by giving notice in writing to the District Development Officer.

#### S.22 Powers and Functions of a Mandala Praja Parishad

- (1) Subject to the provisions of this Act, the administration of the mandal shall vest in the Mandal Praja Parishad. Every Mandala Praja Parishad shall endeavour to instill among the people within its jurisdiction the spirit of self help and initiate and harness their enthusiasms for raising the standard of living.
- (2) The Mandala Praja Parishad shall exercise the powers and perform the functions specified in the schedule.

- (3) The Mandala Praja Parishad may levy contribution from the funds of the Gram Panchayats in the Mandal.
- (4) Every Mandala Praja Parishad may levy with the prior sanction of the Government a duty in the form of a surcharge on any tax imposed by a Gram Panchayat.

**S.24 Power of Mandala Praja Parishad to call for Documents from the Mandala Development Officer**

A Mandala Praja Parishad may at any time require the Mandal Development Officer to furnish any document in his custody. The Mandal Development Officer shall comply with every such requisition.

**S.26 Power and Functions of the President and Vice-President**

- (1) The President of a Mandala Praja Parishad shall -
  - (a) Exercise administrative control over the Mandala Development Officer for the purpose of this Act.
  - (b) Convene, preside over and conduct the meetings of the Mandala Praja Parishad.
  - (c) Have full access to all records of the M.P.P.
- (2) The Vice President shall exercise such powers and perform such functions of the president as the president may from time to time delegate in writing.

**S.28 Powers and Functions of the Mandal Development Officer**

- (1) The Mandal Development Officer shall be the chief executive officer of the Mandala Praja Parishad. He shall be responsible for implementing the resolutions of the Mandala Praja Parishad.
- (2) He shall attend the meetings but not entitled to vote.

**S.32 Mandala Praja Parishad Fund**

- (1) All moneys received by a Mandala Praja Parishad shall constitute a fund called the Mandala Praja Parishad Fund.
- (2) All orders of cheques against the Mandala Praja Parishad fund shall be signed by the Mandal Development Officer.

**S.33 Income and Expenses**

The sources of income of a Mandala Praja Parishad shall consist of:

- (1) Funds of the Government to the Mandala Praja Parishad.
- (2) Funds of Community Development Programme.
- (3) Central and State Government aid.
- (4) Donations and Contributions.
- (5) Proceeds from taxes, fees etc.

**S.35 Budget**

- (1) The Mandal Development Officer shall in each year frame and place before the Mandala Praja Parishad a budget showing the probable receipts and expenditure during the following year.
- (2) The Budget so prepared shall be submitted to the Zilla Praja Parishad.

**S.36 Audit of Accounts**

Provides for the procedure for auditing the accounts of the Mandala Praja Parishad by the Government Auditor.

**S.37 Motion of no confidence in Vice-President**

A written notice of intention to make the motion in such form as may be prescribed, signed by not less than one-half of the

total number of members and shall be submitted to the collector.

**S.38 Power of Government to remove President, Vice-President or Members of the M.P.P.**

If in the opinion of the Government the President or the Vice President of a mandal praja parishad wilfully omits or refuses to carry out the order of the Government then after giving him an opportunity for explanation remove him.

**ZILLA PARISHAD**

**S.43 Constitution, Composition, Powers and Functions of the Zilla Praja Parishad**

The Government may by notification constitute a Zilla Praja Parishad for a district with office from such date as may be specified.

Every Zilla Praja Parishad shall consist of the following Members;

- (1) The President of every Mandal Praja Parishad in the District Ex-officio (includes Vice-President or a temporary president)
- (2) M.L.A. who is a member of a Mandala Praja Parishad in the District.
- (3) M.P. (Lok Sabha and Rajya Sabha) who is a member of a Mandala Praja Parishad in the district.
- (4) M.L.C. who is a member of a Mandal Praja Parishad in the district.
- (5) One person belonging to the minorities.
- (6) The District Collector, ex-officio.

#### S.44 Election of Chairman, Vice-Chairman & Term of Office

- (1) For every Zilla Praja Parishad there shall be a chairman who shall be elected, subject to the provisions of section 9 by the voters in the district, and a vice-chairman who shall be elected by the member of the Zilla Praja Parishad from among themselves.
- (2) Term of office of the chairman shall be five years from the date of appointment.
- (3) The chairman shall be an ex-officio member of the Zilla Praja Parishad and shall be entitled to vote at meetings of the Zilla Praja Parishad.
- (4) The term of office of the Vice-President shall be for five years.

#### S.46 Appointment of District Development Officer and his Powers and Functions

- (1) There shall be a District Development Officer for every zilla praja parishad who shall be appointed by the Government.
- (2) The executive power for the purpose of carrying out the provisions of this Act, shall vest in the District Development Officer who shall -
  - (1) Exercise and perform all functions laid in the Act.
  - (2) Attend the meeting of the Zilla Praja Parishad.
  - (3) Call for any information, written statement, account or report from any officer or servant holding office under the Zilla Praja Parishad or a Mandala Praja Parishad.
  - (4) Shall supervise and control the execution of all activities of the Zilla Praja Parishad.

- (5) Shall exercise such powers and perform such other functions as may be prescribed.

#### S.47 Term of Office of Members of Zilla Praja Parishad

Save as otherwise provided in this Act;

- (1) An ex-officio member specified in clause (1) of sub section (3) of section 43 shall hold office so long as he continues to be the president of the mandal praja parishad which he represents.

#### S.50 Resignations of Chairman, Vice-Chairman and Members

The Chairman, the Vice-Chairman or a Member specified in clause (1) of clause (v) of sub-section (3) of section 43 may resign his office as such by giving notice in writing to the District Collector.

#### S.51 Standing Committee

For every Zilla Parishad there shall be constituted the following standing committees for -

- (1) Development;
- (2) Education;
- (3) Social Welfare;
- (4) Women Welfare;
- (5) Works;
- (6) Finance;

Each Committee shall consist of atleast one member from SC/ST or minorities or women.

#### S.56 Powers and Functions of Zilla Praja Parishad

Every Zilla Praja Parishad shall have the power to:

- (1) Examine and approve the budgets of mandal panchayats in the district.

- (2) Distribute the funds allotted to the district by the central or state government among the mandal praja parishad and mandals in the district.
- (3) Secure the execution of plans, project schemes and other such schemes.
- (4) Supervise generally the activities of the mandala praja parishads in the district.
- (5) Exercise and perform such other powers and functions in relation to any development programme as the government may by notification, confer on or entrust to it etc.

**S.57 Powers and Functions of Chairman and Vice Chairman of the Parishad**

- (1) Exercise administrative control over the District Development Officer for the purpose of this Act.
- (2) Convene, preside over and conduct the meetings of the Zilla Praja Parishad.
- (3) Have full access to all records of the Zilla Praja Parishad.
- (4) The Vice-Chairman shall exercise such powers and perform such functions of the chairman as the chairman, may from time to time, delegate to him in writing.
- (5) When the office of the chairman is vacant the vice chairman of the Zilla Praja Parishad shall exercise the powers and perform the functions of the chairman until a new chairman is elected.
- (6) It shall be the duty of the chairman to convene the meetings of the zilla parishad so that at last one

meeting of the Zilla Praja Parishad is held in every ninety days.

**S.59 Emergency Powers of the District Collector**

In case of emergency, the District Collector may direct the execution of any work or the doing of any work which would ordinarily require the sanction of the zilla praja parishad.

**S.60 Officers and other employees**

- (1) The government may, at any time create such post of officers and other employees of a Zilla Praja Parishad as they may consider necessary for carrying out the purposes of this Act.
- (2) The government, may from time to time, by order give such directions to any parishad or any officer, authority, or person as may appear to them to be necessary for the purpose of giving effect to the provisions of this section and the parishad, officer, authority or person shall comply with all such directions.

**S.62 Funds of the Parishad**

- (1) All moneys received by the Zilla Praja Parishad shall constitute a fund called the Zilla Praja Parishad Fund and shall be applied for the purposes specified in this Act and for such other purposes and in such manner as may be prescribed.
- (2) All orders or cheques against the Zilla Praja Parishad fund shall be signed by the District Development Officer.

**S.63 Income and Expenses**

The sources of income of Zilla Praja Parishad shall consist of;

- (1) Funds allotted by the state and central government.
- (2) Grants from all India bodies.
- (3) Proceeds from taxes or fees.
- (4) Donations and contributions.

The expenses of the parishad shall include the salaries and allowances of its officers and other employees. And such other expenditure directed by the government for carrying out the purposes of this Act.

**S.64 Budget of the Parishad**

The District Development Officer shall in each year frame and place before the prescribed date, a budget showing the probable receipts and expenditures during the following year, and the Zilla Parishad shall sanction the budget with such modification if any as it thinks fit.

**5.66 Motion of No-Confidence in the Vice-Chairman**

A written notice of intension to make the motion in such form as may be prescribed signed by not less than one-half of the total number of the zilla praja parishad members and submitted to the District Collector.

**S.69 Zilla Abhivrudhi Sameeksha Mandali**

- (1) The government may by notification constitute a zilla Abhivrudhi Sameeksha Mandali with effect from such date.
- (2) Every Mandali shall consist of the following -
  - (1) The Chairman of Zilla Praja Parishad.
  - (2) M.L.As and MPs elected from the district and the MLC.

- (3) District Collector who shall be the member secretary of the Mandali.
- (4) Such Minister as may be nominated by the chief minister shall be the chairman and the chairman of the Zilla Parishad concerned shall be the Vice-Chairman of the Mandali.
- (5) The Mandali shall review the developmental activities of all departments in the district and also perform such other functions as the government may by notification entrust to it.
- (6) The Mandali shall meet at least once in three months.

**S.70 Transfer of Power and Functions of District Board to Mandal and Zilla Praja Parishads**

Notwithstanding any thing in the relevant District Board Act or any other law, the government may direct that any powers exercisable or functions performable by a District board shall be transferred to a mandal or zilla praja parishad.

**S.73 Power to Cancel or Suspend any Resolution**

The Government may, by order in writing cancel any resolution passed by a Mandal Praja Parishad or a Zilla Praja Parishad if in its opinion such resolution.

- (1) Is not legally passed,
- (2) Is in excess or abuse of the powers.

The State Government shall, before taking action under Sub-Section (1), give the Mandala Praja Parishad or the Zilla Praja Parishad as the case may be an opportunity for explanation.

**S.75 Power of Government to Supersede or Dissolve a Mandala Praja Parishad or a Zilla Parishad**

If at any time, it appears to the government that a mandal or zilla praja parishad is not competent to perform its functions or has failed to exercise its power or perform its functions the government may direct the mandal or the Zilla Praja Parishad to remedy such, if it does not remedy the government may supersede such bodies for a period not exceeding one year or dissolve it.

**S.76 Appointment of Special Officer**

Notwithstanding any thing in this Act where in the opinion of the government it is not possible to hold the elections to a mandal or zilla praja parishad in accordance of this Act before the expiration of the term the government shall appoint a special officer.

**S.91 Reservation to Cease After 25th January 2000 Years**

The provisions of this Act relating to reservation of office of President and Chairman of the SC/ST, women and Backward Classes shall cease to have effect on the expiration of 25 January 2000 years from the commencement of this Act.

**S.98 Abolition of Panchayat Samitis**

With effect on and from the constitution of mandal praja parishads there of, under this act, a block formed under section 3 of the Andhra Pradesh Panchayat samithis and Zilla Parishad Act 1959 shall cease to exist.

THE BIHAR PANCHAYAT RAJ ACT 1947  
(Bihar Act 7 of 1948)

CHAPTER - I

Title

- S.1. It is an Act to establish and develop local self-government in the Village Communities of the Province of Bihar. This Act may be called the Bihar Panchayat Raj Act 1947.

CHAPTER - II

S.3 Establishment and Constitution of Gram Panchayats

- (1) For every village the government may by notification establish a Gram Panchayat.
- (2) The government shall specify the name and the local limits of the jurisdiction of Gram Panchayat.

S.3 (a) Election Commission

To conduct the elections of the Village Panchayats there shall be an Election Commission. Its constitution and jurisdiction, functions and authority is the same as provided in panchayat samiti and zilla parishad Act.

S.3(k) Panchayati Raj Tribunal

There shall be a Panchayat Raj tribunal to decide disputes relating to Panchayat elections in the state. It shall be presided over by a person having a judicial qualification. The status of the Presiding Officer shall be equivalent to the status of a District and Sessions Judge..

S.4 Membership of Gram Panchayat

Every Gram Panchayat shall consist of all persons enrolled as electors in the electoral roll of an assembly constituency of

the state of Bihar. Revenue Village shall constitute the territory for village panchayat.

### CHAPTER - III

#### S.8 Meeting of Gram Panchayat

Every Gram Panchayat shall hold every quarterly a general meeting. The Mukhiya may, or upon a requisition in writing by not less than one tenth of the members of the Gram Panchayat shall call an extraordinary general meeting at any time. The time and place of all the meetings of the Gram Panchayat shall be notified in the prescribed manner. The required quorum for a general meeting is 1/20 or 200 members which ever is less but for adjourned general meeting there is no requirement of quorum.

#### S.10 Mukhiya to be the Head of the Executive Committees of Gram Panchayat

The executive functions of the Gram Panchayat shall be performed by an executive committees of which the head shall be known as the Mukhiya. It shall consist of sixteen members elected by the Gram Panchayat from eight wards.

#### S.11 Election of Mukhiya

As soon as may be after its establishment every Gram Panchayat shall in the prescribe manner elected from among its own members a Mukhiya.

#### S.12 Constitution of the Executive Committee

The Executive Committee shall consist of -

- (1) Mukhiya

- (2) Sixteen members to be elected by the Gram Panchayat from eight wards.
- (3) Reservation of seats for SC/ST in proportion to their population in the Village Panchayat.
- (4) Reservation of one seat for SC/ST in case the total population is not sufficient for reservation of seats.
- (5) As nearly as may be thirty percent of the total number of seats reserved for SC/ST shall be reserved for women belonging to SC/ST.
- (6) As nearly as may be thirty percent of the total number of seats to be filled by direct elections in every Panchayat shall be reserved for women.

**S.12(a) Election of Up-Mukhiya: His Powers & Duties**

- (1) The members of the Executive Committee shall elect in the prescribed manner, one of their member to be Up-Mukhiya.
- (2) The Mukhiya may with the approval of the E.C. delegate all or any of his duties and powers to the Up-Mukhiya and may at any time withdraw or modify the same.
- (3) In the vacancy of the Office of the Mukhiya, the Up-Mukhiya shall function as Mukhiya.

**S.8 Meetings of the Gram Panchayat**

- (1) The Gram Panchayat shall at the annual general meeting held in the first quarter of a year consider and pass the budget.
- (2) 1/10th of the total number of the members form a quorum for any meeting of the Panchayat.

**S.13 Removal Resignation Etc. of Mukhiya or any other Member of the E.C.**

- (1) The Gram Panchayat may, at any meeting specially convened for the purpose in the prescribed manner, remove the Mukhiya by a majority of votes of the members present and voting.
- (2) The Government may remove the Mukhiya or any other member of the E.C. for misconduct, incapacity or manifest breach of duty.

**S.14 Compulsory Duties of Gram Panchayat**

- (1) Sanitation and Conservancy
- (2) Medical relief and first-aid
- (3) Supply of water
- (4) Maintenance of accounts of crop, animal and vital statistics required by government.
- (5) Control and prevention of epidemics.
- (6) Execution of Rural Development Programme.
- (7) Bringing waste lands under cultivation.
- (8) Implementation of land reforms. etc.
- (9) Agriculture and Animal Husbandary.

**S.15 Sub-Committees of E.C.**

- (1) Health and related matter.
- (2) Education
- (3) Transport
- (4) Finance and Taxation

These Committees shall consist of three members each who shall be elected amongst themselves. There shall be a chairman of

each committee. The Mukhiya shall be the chairman of finance and taxation committee.

#### S.26 Village Volunteer Force

For general watch and ward the E.C. may organise a village volunteer force called the 'Gram Raksha Dal' under the command of the chief officer to be appointed by E.C.

### CHAPTER - V

#### S.41 Gram Panchayat Fund

- (1) For each Gram Panchayat there shall be formed Gram Panchayat Fund and there shall be placed to the credit there of such proceeds of tax and other money received by it as may be prescribed.
- (2) Except as otherwise provided in this Act and subject to the prescribed restrictions, the Gram Panchayat fund may be applied to any of the following purposes within the jurisdiction of a Gram Panchayat.
- (3) Execution of duties imposed on the Panchayat etc.

#### S.42 Property Vested in the Gram Panchayat

Subject to any other law and any general order of the government in this behalf all public property, situated within the area of the Gram Panchayat shall vest in and belong to the Gram Panchayat and all other property, which may become vested in the Gram Panchayat be under its direction, management and control.

## CHAPTER - VI

## S.43 Taxes

The Panchayats can levy taxes on licence fees, vehicle, animal tax, fair and markets tax, registration fees for animals. Water tax, latrine tax, lighting rate if these are supplied by the Panchayats.

## CHAPTER - VII

## S.49 Constitution of Gram Kutcherry and Election of Panches

Every Gram Panchayat shall for the purpose of discharging the judicial function imposed upon it or under this Act establish a 'Gram Kutcherry' consisting of sixteen panches including the sarpanch elected by the 'Gram Panchayat' Each Panchayat shall be divided into eight wards.

## S.50 Term of Office of Sarpanch &amp; Panches

The term of office of the sarpanch and the panches shall be for five years however it can be extended to a maximum period of six months.

## S.51 Election of Sarpanch and his Duties

Every Gram Panchayat shall in the prescribed manner elect from among its own member a person to act as sarpanch of the gram panchayat.

The Sarpanch shall-

- (1) Be the president of the gram kutcherry
- (2) Entertain suits and cases on application of parties of police reports.
- (3) Take steps for appearance of the parties and witnesses.

#### S.51(a) Election of Up-Sarpanch and his Duties

- (1) The Panches elected or nominated under section 49 shall elect from among themselves in the prescribed manner a person to act as Up-Sarpanch.
- (2) The Up-Sarpanch shall during the vacancy in the office of the sarpanch or in the absence of the sarpanch perform the duties which may be prescribed.

#### S.52 Removal of Sarpanch and Up-Sarpanch or Panch

The Government may remove a Sarpanch, Up-Sarpanch or Panch for misconduct, incapacity or breach of duty.

### CHAPTER - VIII

#### S.77 Appointment of Panchayat Sevak

For every Gram Panchayat the Government may appoint a Panchayat Sevak who shall be in charge of the office of the Gram Panchayat and be responsible for the preparation of a programme of schemes and works to be executed under the Act.

### CHAPTER - IX

#### S.79 Disqualification of Mukhiya, Sarpanch etc.

- (1) Not a subject of India
- (2) Is in the service of Central or State Government
- (3) Has been adjudged by a competent court to be of unsound mind.
- (4) Is under 25 years of age.
- (5) Holds any salaried office or place of profit in the gift or disposal of a Gram Panchayat property.

**S.80(A) Finance Commission**

The State Government shall constitute a Finance Commission for a period of five years or less which shall have a Chairman and two members as per the prescribed qualification. The powers and functions of the Commission are also prescribed.

**S.80 (B) Audit of Accounts**

The State Government shall constitute the appropriate organisation for Audit of funds of the Panchayats.

**PANCHAYAT SAMITIES AND ZILA PARISHADS ACT OF BIHAR 1961**

(BIHAR ACT 1961, BIHAR ACT OF 1962)

**CHAPTER - I****PRELIMINARY****Title**

S.1 This Act may be called the Bihar Panchayat Samitis and Zila Parishads Act, 1961.

**S.4 Constitution of Panchayat Samitis**

Every Panchayat Samiti shall bear the name of the block for which it is constituted and be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to enter into contracts and may, by its corporate name, sue and be sued.

**S.5 Constitution of Panchayat Samitis**

Every Panchayat Samiti shall consist of the following members:

- (1) Two members elected by the members of the Panchayat in the block.
- (2) Reservation of seats for SC/ST in proportion to their population in a block by rotation.

- (3) Reservation of one seat for SC/ST in case the total population is not sufficient for reservation of seats.
- (4) As nearly as may be, thirty per cent of the total number of seats under clause I section SC shall be reserved for women belonging to SC/ST. Provided that where only two seats are reserved for SC/ST one of the two seats shall be reserved for women belonging to the SC/ST.
- (5) As many as may be, thirty per cent of the total number of seats to be filled by direct election in every panchayat shall be reserved for women and allotted by rotation to different constituencies in a Panchayat.

2. The Mukhiyas of all Gram Panchayats in the block.

### 3. Associate Members of the Panchayat Samitis

- (1) Every member of the Legislative Assembly of the state and of the house of the people shall for so long as he continues to be such member, be an associate member of the Panchayat Samiti.
- (2) Every member of the Legislative Council of the state and of the Rajya Sabha residing in the block shall be an associate member of the Panchayat Samiti of that block.

### S.7 Term of Office

- (1) The Members and the Associate Members shall hold office for a period of five years.
- (2) In case the elections to the Panchayats are not held the Government has the power to extend the term of the Panchayats to a maximum period of six months.

### S.8 Election of Pramukh and Up-Pramukh

- (1) There shall be a Pramukh and a Up-Pramukh for each Panchayat Samitis who shall be elected by -
  - (A) The elected members of the Panchayats
  - (B) The Mukhiya of Gram Panchayats
  - (C) Members of the Executive Committee.
- (2) The meeting of the election of the Pramukh and Up-Pramukh shall not take place unless and untill 50% of the total members are present in the meeting.
- (3) The term of the Pramukh and the Up-Pramukh may be extended to a maximum period of six months.

### S.8(A) Vacation of Office in case of more than one Membership

When a person becomes a member of Panchayat Samiti in more than one capacity or is elected a Pramukh or Up-Pramukh of more than one panchayat samiti, he shall within a fortnight of the date of such election or within one month after the publication of the Bihar Panchayats Samitis and Zila Parishads (Amendment) Act 1964 which ever is later vacate one of the offices.

### S.9 Disqualification of Becoming a Member

Notwithstanding any thing contained in this Act, a person shall be disqualified if such person

- (1) Is not a citizen of India;
- (2) Subject to the provisions of the proviso to clause (ii) of section 5, is in the service of Central or State Government or any institution receiving aid from the Government or any local authority.
- (3) Has been adjudged by competent court to be of unsound mind.

- (4) Is under twenty five years of age.
- (5) Has been dismissed from State or Central Government service for misconduct and has been declared to be disqualified for employment.
- (6) Holds any salaried post or place of profit in the gift or disposal of the Panchayat Samiti property.
- (7) Is suffering from Leprosy and tuberculosis.

#### **S.10 Cessation of Membership of Panchayat Samiti**

Subject to the provisions of the Act -

- (1) A member of a Panchayat Samiti mentioned in clause (1) (1a) and (ii) of sub-section (i) of Section 5 shall cease to be a member, if he resigns the office.
- (2) A member of a Panchayat Samiti shall cease to be a member, if he is or becomes subject to any disqualification in section 9.
- (3) A member of a Panchayat Samiti mentioned in clauses (iii) (iv) and (v) of sub-section (i) of Section (5) shall cease to be a member if he has absented himself from four consecutive meetings of the Panchayat Samiti without the permission of the Panchayat Samiti or resign his office.

#### **S.12 Resignation of Pramukh, Up-Pramukh or Member**

The Pramukh, Up-Pramukh or any Member, other than an office member of the Panchayat Samiti may resign his office.

#### **S.13 Powers and Functions of Panchayat Samitis**

Subject to the provisions of this Act the Panchayat Samiti shall exercise all the powers conferred on and perform all the functions entrusted to it, by or under this Act and such other

powers and functions as may be conferred on and entrusted to it, by the State Government for carrying out the purpose of this Act, and shall also exercise and perform the powers and functions of the District Board including the power to levy any tax or fees as may be transferred to it under this act.

#### **S.13 Levy of Taxes**

Subject to any rule or any general or special order of the State Government in this behalf, a Panchayat Samiti may levy the following taxes or fees:

Irrigation tax, water tax, registration fee for cycles, cycle rickshaws and any other vehicle tax, toll tax, fair, markets and ferries tax etc.

#### **S.14 Standing Committees**

Every Panchayat Samiti shall constitute standing committees for such of the following groups or subjects -

- (1) Agriculture, Animal Husbandry
- (2) Social Education, Arts & Crafts, Small Savings & Cottage Industries.
- (3) Public Health including sanitation
- (4) Communication and works
- (5) Finance and Taxation
- (6) Social Welfare for Weaker Sections
- (7) Irrigation
- (8) Education

#### **S.18 Powers and Functions of the Pramukh and Up-Pramukh**

The Pramukh shall -

- (1) Convene, preside over and conduct meetings of the Panchayat Samiti

- (2) Have access to all its records
- (3) Encourage the growth of initiative and enthusiasm in the Gram Panchayats and help the growth of cooperation and voluntary organisation.
- (4) Exercise administrative control over the Block Development Officer for the purpose of the implementation of the decision and resolution of the Panchayat Samiti.
- (5) Perform all such powers as are composed or conferred or delegated to him or under the Act.

#### S.19 Block Development Officer

For every block the State Government shall appoint an officer not below the rank of Deputy Collector to be the Block Development Officer who shall be the Chief Executive Officer of the Panchayat Samiti.

#### S.21 Powers and functions of the B.D.O.

- (1) Be responsible for implementing the resolutions of the Panchayat Samiti and of the Standing Committees thereof.
- (2) Exercise such powers and perform such other functions as may be entrusted to him by the State Government.
- (3) Notwithstanding anything in the law relating to Gram Panchayats for the time being in force, exercise under the Guidance of the Pramukh, such powers of supervision over the Gram Panchayats in the Block as may be prescribed.
- (4) Record and maintain the minutes of such meetings.
- (5) Draw and disburse money out of the Panchayat Samiti fund in the manner prescribed.

## S.22 Emergency Powers of the B.D.O.

In the absence of the Pramukh and Up-Pramukh from head quarters of the block, the B.D.O. may, in case of emergency such as fire, flood, epidemic or the like, direct the execution of any work, which is in his opinion urgently required for the welfare of the public and may also direct that the expenses of executing such work or doing such act shall be paid from the Panchayat Samiti.

## S.23 Creation of Posts of Officers and other Employees of Panchayat Samiti and Appointment

Every Panchayat Samiti shall have the power to create with the previous approval of the State Government such posts of officers and other employees as it may consider necessary for carrying out the purpose of this Act.

## S.24 Allowances to Members etc. of Panchayat Samiti

The members of the Panchayat Samiti and its standing committees, associated members, Pramukh, Up-Pramukh and the Chairman of the standing committees shall be paid such allowances as may be prescribed.

## S.25 Panchayat Samiti Fund

All moneys received by or on behalf of a Panchayat Samitis shall constitute a fund called the Panchayat Samiti Fund which shall be provided for the purpose specified in this Act and for such other purposes and in such manner as may be prescribed.

## S.26 Income of Panchayat Samiti

The sources of a Panchayat Samiti shall consist of -

- (1) Grants and aids received from the Government

- (2) Aids received from All-India bodies and Institutions.
- (3) Ad-hoc grants received from the or through the Zila Parishad.
- (4) Share of local cess and share of land revenue and other sums received from the Zila Parishad.
- (5) Proceeds from taxes, surcharge or fees which Panchayat Samitis may levy under the Act.
- (6) Such contributions as the Panchayat Samiti may receive from Gram Panchayats etc.

#### S.27 Expenses of Panchayat Samiti

The expenses of the Panchayat Samiti shall include the following namely -

- (1) Payment of salaries and allowances of its officers and other employees.
- (2) Allowances to its members including associate members.
- (3) Repayment of loans
- (4) Any other item directed by the Government.

#### S.28 Budget of Panchayat Samiti

- (1) The Block Development Officer shall in each financial year in consultation with the Pramukh, frame and place before the Panchayat Samiti on or before the prescribed date, budget showing estimated receipts and expenditure.
- (2) The budget so sanctioned shall be placed by the B.D.O. on or before such date as may be prescribed to the Zila Parishad.

## ZILA PARISHAD

## S.35 Constitution, Incorporation and Composition of Zilla Parishad

The State Government may, by notification in the official gazette, constitute a Zila Parishad for a district.

## S.36 Constitution of Zilla Parishad

Every Zila Parishad shall consist of -

- (1) Two members elected among the members of the Village Panchayats from every block of the district.
  - (2) Reservation of seats for SC/ST in proportion to their population on rotation basis.
  - (3) Reservation of one seat for SC/ST in case the total population is not sufficient for reservation of seats.
  - (4) As nearly as may be thirty per cent of the total number of seats shall be reserved for women belonging to SC/ST.
  - (5) Provided that where only two seats are reserved for SC/ST one of the two seats shall be reserved for women belonging to SC/ST.
  - (6) As nearly as may be thirty percent of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and allotted by rotation to different constituencies in a Panchayat.
2. (1) Every Panchayat Samiti Pramukh shall be the ex-officio member.
- (2) All members of the Legislative Assembly of the state and members of the house of people whose constituencies lie wholly or partly in the district.

- (3) All members of the Legislative Council of the state and of the Council of States who is a resident of the district.
- (4) Two members from the cooperative societies.
- (5) Three members from municipal bodies etc. However the members from the cooperative societies and the municipal bodies shall have no voting rights.

#### S.37 Term of Office

- (1) The term of office of the members of the Zila Parishad shall be for a period of five years.
- (2) In case a member has been elected in mid-term of the Panchayat he shall continue only for the remainder period for which the Panchayat shall exist.
- (3) In case elections do not take place the term of the members can be extended to a maximum period of six months.

#### S.38 Elections and Term of Office of Adhyaksha and Up-Adhyaksha of Zilla Parishad and Filling of Vacancies

- (1) There shall be an Adhyaksha and Up-Adhyaksha for each Zila Parishad who shall be elected in the prescribed manner by the members of the Zila Parishad from amongst themselves.
- (2) Notwithstanding any thing contained in sub-section (1) of section 37 but subject to the other provisions of this Act the term of office of Adhyaksha or Up-Adhyaksha shall be five years from the date of election and when a vacancy occurs in the office before expiry of the term the person so elected to the office shall hold office for the residue of the term of his predecessor.

- (3) When a vacancy in the office of Adhyaksha is caused by the acceptance of resignation under the proviso to sub-section (2) of Section 40, such vacancy shall be filled up on the same day on which the resignation is accepted.
- (4) The meeting shall taken place when atleast 50% of the members are present.

#### **S.39 Disqualification**

The provisions of section 9, 10 and 11 shall apply to the members of Zila Parishad.

#### **5.41 Powers and Functions of Zilla Parishad**

- (1) Scrutinize and approve budget of the Panchayat Samitis.
- (2) Distribute the funds among the Panchayat Samitis and blocks.
- (3) Coordinate the work of the Gram Panchayat and Panchayat Samitis.
- (4) Co-ordinate and consolidate plans prepared by different Panchayat Samitis.
- (5) Offer guidance and supervise development works.
- (6) Prepare plans for the Zila Parishad.
- (7) Development agencies, schemes and authority shall be under the Zila Parishad.

#### **S.42 Zilla Parishad Committee**

The Zila Parishad shall constitute the following Committees to perform its functions:

- (1) Community Development and Communication.
- (2) Agriculture, Cooperation and Animal Husbandry
- (3) Small Scale and Cottage Industries.

- (4) Social Welfare and Welfare of the weaker sections including women and children.
- (5) Finance and Taxation
- (6) Public Health and Sanitation.
- (7) Education
- (8) Irrigation and Electricity.

The Zila Parishad is competent to create additional committees to perform functions.

**S.47 Powers and Functions of Adhyaksh and Up-Adhyaksha**

- (1) Convene and preside over the meetings of the Zila Parishad.
- (2) Have full access to the records of the Zila Parishad.
- (3) Perform all such functions and exercise all such powers as is imposed on him under this Act.
- (4) Visit the blocks.
- (5) Inspect and report about the work.

**S.47(A) Appointment of Officers**

Additional Development Commissioner and Deputy Development Commissioner shall be appointed for each district for developmental activities.

**S.49 Emergency Powers**

In the absence of Adhyaksha and Up-Adhyaksha from the headquarters of the district, the D.D.C. shall direct the execution of any work which in his opinion is of public importance.

**S.52 Zilla Parishad Fund**

The Zila Parishad Fund shall consist of:

- (1) All moneys received by or on behalf of the Zila Parishad,

which shall be applied for the purpose specified in this Act and for such other purposes and in such manner as may be prescribed.

- (2) All moneys received by or on behalf of the Zila Parishad.

#### **S.53 Income of Zilla Parishad**

- (1) Central or State Governments funds allocated.
- (2) Grants from all India bodies.
- (3) Loans raised by the Zila Parishad.
- (4) Donations from Panchayat Samitis, Nagar Nigam, Nagar Palika etc.
- (5) Proceeds from taxes etc.

#### **S.54 Expenses of the Zilla Parishad**

- (1) Payment of salary and allowances to its officers
- (2) Payment of allowances to its members, Adhyaksha, Up-Adhyaksha etc.
- (3) Repayment of loans to state and central government.

#### **S.55 Budget of Zilla Parishad**

Deputy Development Commissioner of the Zila Parishad shall, in each financial year, frame and place before the Zila Parishad a budget showing the probable receipt and expenditure during the financial year. He shall also be the Secretary of the Zilla Parishad.

#### **S.60 Panchayati Raj Election Commission**

To conduct, supervise and to prepare electoral rolls for the Village Panchayats, Panchayat Samitis and Zila Parishad there

shall be constituted an Election Commission. The Election Commission shall be an independent body of the state Government for a period of three years. The rank of the Election Commissioner shall be that of the Divisional Commissioner and the maximum age is 65 years.

#### **S.61 Panchayati Raj Tribunal**

There shall be a Panchayati Raj Tribunal to decide dispute relating to Panchayati Raj election in the state. It shall be presided over by a person having a judicial qualification. The status of the presiding officers shall be equivalent to the status of a District and Sessions Judge.

#### **S.62 Audit of Accounts**

The State Government shall constitute the appropriate organisation for Audit of Funds of the Panchayats.

#### **5.62(B) Finance Commission**

The State Government shall constitute a Finance Commission for a period of five years or less which shall have a Chairman and two members as per the prescribed qualification. The powers and functions of the Commission are also prescribed.

#### **S.69 Power of Supersession**

The State Government can supersede a Panchayat Samiti or a Zila Parishad. However the period shall not be beyond six months.

## GUJARAT

## THE GUJARAT PANCHAYATS ACT 1961

## CHAPTER - I

S.1. This Act may be called the Gujarat Panchayats Act 1961.

## CHAPTER - II

## S.3 ESTABLISHMENT OF PANCHAYATS OF DIFFERENT TIERS

For the purpose of this Act, there shall be in each district.

- (1) Gram Panchayat for each Gram.
- (2) Nagar Panchayat for each Nagar.
- (3) Taluk Panchayat for each Taluk.
- (4) District Panchayat for each District.

## S.4. Establishment of Nyaya Panchayat

For the purpose of the administration of civil and criminal justice as provided in the Act there shall be a Nyaya Panchayat.

## S.6. Gram Sabha

There shall be a Gram Sabha for a Gram for performing such functions as are provided in this Act and such other functions as may be prescribed.

## S.12 Constitution of Gram Panchayats

- (1) A Gram Panchayat shall, subject to the provisions of Sub-Section(5) consist of such number of members including the Sarpanch not less than seven and not more than fifteen.
- (2) A Gram Panchayat shall have a Sarpanch and a Up-Sarpanch.
- (3) The Sarpanch shall be elected by ballot by the qualified voters of the Gram from amongst themselves.

- (4) The Up-Sarpanch shall be elected by members of Gram Panchayat from amongst themselves.

#### S.13 Constitution of the Nagar Panchayat

- (1) A Nagar Panchayat shall, subject to provisions of Sub-Section 3 consist of such number of members not less than fifteen and not more than twenty one.
- (2) A Nagar Panchayat shall have a Chairman and a Vice-Chairman elected by its members from amongst themselves.
- (3) Out of the total number of seats of members determined under sub-section (1) there shall be reserved for:
  - (1) Women
  - (2) Scheduled Caste
  - (3) Scheduled Tribe.

#### S.14 Constitution of Taluka Panchayats

- (1) A Taluka Panchayat shall consist of elected and associate members.
- (2) A Taluka Panchayat shall have a President and a Vice President elected by its members from amongst themselves.
- (3) The number of elected members of a Taluka shall be specified on population basis.
- (4) Out of the total number of seats three shall be reserved for:
  - (1) Scheduled caste
  - (2) Scheduled Tribe
  - (3) Women
- (5) Following shall be associate members of the Taluka -
  - (1) Members of the Legislative Assembly elected from any constituency in the Taluka or part.

- (2) Presidents of all municipalities within the revenue Taluka or Mandal.
- (3) A representative of the District Cooperative Union to be nominated by managing board of the union.

#### S.15 Constitution of District Panchayats

- (1) A District Panchayat shall consist of elected and associate members.
- (2) A District Panchayat shall have a President and a Vice-President elected by its elected members from amongst themselves.
- (3) Out of the total number of seats specified in sub-section 3, three seats shall be reserved for:
  - (1) Scheduled Caste
  - (2) Scheduled Tribe
  - (3) Women

The following shall be the associate members;

- (1) M.L.A. elected from the area falling within the District Panchayat.
- (2) M.L.C. residing in the revenue district.
- (3) The collector of the district.
- (4) President of all municipalities within the revenue district.
- (5) A representative of the District Co-operative Union.

### CHAPTER - III

#### S.18 Election

- (1) The election of members to a Panchayat shall be held on such date as the election authority may appoint in that behalf.

- (2) Such election shall be conducted in the prescribed manner.
- (3) The names of the elected members shall be published in manner prescribed.

#### S.23 Disqualification

No person shall be a member of a Panchayat or continue as such who:

- (1) Has whether before or after the commencement of this Act been convicted.
- (2) Has been adjudged by a competent court to be of unsound mind.
- (3) Has been adjudicated as insolvent.
- (4) Holds any salaried office
- (5) Is disqualified under the Act.

### CHAPTER - IV

#### S.44 Election of Up-Sarpanch or Chairman of Gram Panchayats and Nagar Panchayats

On the constitution of a Gram Panchayat or a Nagar Panchayat or on its reconstitution under section 17 or under any other provision of this Act there shall be called the first meeting there of for the election of Upa-Sarpanch or Chairman as the case may be.

#### S.45 Term of Office

Save as otherwise provided in this Act the term of office of -

- (1) The members of a Gram Panchayat or Nagar Panchayat.
- (2) The Sarpanch and Upa-Sarpanch of a Gram Panchayat.
- (3) The Chairman and Vice-Chairman of Nagar Panchayat shall be co-extensive with the term of the Panchayat.

**5.47 Functions of Chairman, Upa-Sarpanch or as the Case May be**

- (1) Preside over and regulate the meetings of the Panchayat.
- (2) Exercise Supervision and control over the acts done and action taken thereof.
- (3) Incur contingent expenditure.
- (4) Operate on the fund of the Panchayat.

**S.51 Suspension of Sarpanch-Upa-Sarpanch Chairman etc.**

The D.D.O. may suspend from office the sarpanch, upa-sarpanch of a Gram Panchayat or as the case may be of Taluka Panchayat against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted.

**TALUKA PANCHAYATS**

**S.55 First Meeting of Panchayat and Election of President and Vice President**

On the constitution of Taluka Panchayat or on its reconstitution under section 17 or under any other provisions of this Act there shall be called the first meeting for the election of the President and Vice-President.

**S.57 Term of office of Member, President and Vice-President**

Save as otherwise provided in this Act, the term of Members, President and Vice President of a Taluka Panchayat shall be co-extensive with the term of the Panchayat.

**S.59 Powers and Functions**

The President shall:

- (1) Convene, preside and conduct meetings;
- (2) Have access to the records of the Taluka Panchayat

- (3) Discharge all duties under the Act.

The Vice-President shall:

- (1) In the absence of the President preside at the meetings of the Panchayat.
- (2) Discharge duties of President in event of absence or vacancy.

#### **S.61 Removal from office**

The competent authority may remove from office any member of the Panchayat except an associate member.

#### **5.63 Suspension of President & Vice-President**

The competent authority may suspend from office any President or Vice-President against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted.

### **DISTRICT PANCHAYAT**

#### **S.67 First Meeting and Election of President and Vice-President**

On the constitution of a District Panchayat or on its reconstitution under section 17 or under any other provisions of the Act there shall be called the first meeting for the election of the President and Vice-President.

#### **S.69 Term of Office**

Save as otherwise provided in this Act the term of office of Members, President and Vice-President of a District Panchayat shall be co-extensive with the term of the Panchayats.

#### **Powers and Functions of the President:**

- (1) Convene, preside and conduct meetings.
- (2) Have access to the records.

- (3) Discharge all duties and exercise all powers under the Act.
- (4) Administrative supervision over the District Development Officer for implementation of plans.

#### **Vice President**

- (1) In the absence of the President preside over the meeting.
- (2) Exercise such powers as under the Act.

#### **S.72 Motion of No-Confidence**

### **CHAPTER - V**

#### **CONDUCT OF BUSINESS**

##### **S.81 Gram Panchayat Committees, Powers and Functions**

- (1) A Gram Panchayat may constitute an Executive Committee for performing such functions and duties.
- (2) The Committee shall consist of five members to be elected by the Panchayat from amongst its members, one should belong to a SC or ST and one woman.

##### **S.82 Nagar Panchayat Committees - Functions & Powers**

- (1) a Nagar Panchayat may constitute an Executive Committee for performing such of its functions and duties as the Panchayat may assign to it.
- (2) The E.C. shall consist of not less than five and not more than seven members to be elected among the Panchayat out of whom one should belong to SC or ST and one woman.

##### **S.83 Meetings of Gram Sabha**

- (1) There shall be held atleast two ordinary meeting of the Gram Sabha every year.

- (2) Unless otherwise provided in this Act the Sarpanch and in the absence of the Sarpanch, the Upa-Sarpanch shall preside over every meeting of the Gram Sabha.

#### **S.88 Administrative Powers of Panchayat**

Subject to the provisions of this Act it shall be the duty of every Panchayat to make in the area within its jurisdiction and so far as the fund at its disposal will allow, reasonable provision in regard to all or any of the matters specified in schedule I.

#### **S.99 Gram Fund or Nagar Fund**

There shall be:

- (1) In each Gram a fund to be called Gram Fund
- (2) In each Nagar a fund to be called Nagar Fund.

#### **S.100 Source of Fund**

- (1) An amount allotted by the State Government.
- (2) The proceeds of any tax or fee imposed.
- (3) Fund contributed by agencies.
- (4) All sums received as gifts or contributions.

#### **S.102 Secretary and Servants of Panchayat**

Subject to the provisions of this Act and the rules made there of there shall be a secretary for every Gram Panchayat and Nagar Panchayat.

#### **S.104 Budget**

Every Panchayat shall prepare annually on or before such date estimate of its income and expenditure for the next financial year and shall forward it to the upper Panchayat.

#### **S.109 Audit of Accounts of Panchayats**

**PROVISIONS RELATING TO TALUKA PANCHAYATS****S.110 Meeting**

The meeting of a Taluka Panchayat shall be held normally every three months.

**S.111 Taluka Panchayat Committees - Functions & Powers**

A Taluka Panchayat Committee shall constitute such committees as may be required to carry on the function.

The E.C. shall exercise such powers and perform such functions and duties of the Taluka Panchayat as the Panchayat may assign.

**S.120 Taluka Fund**

There shall be in each Taluka a Fund which shall be called a Taluka Fund.

The following shall be paid into the Taluka Fund -

- (1) Proceeds of tax or fee imposed.
- (2) Contributions from the Government
- (3) Loans from the State Governments
- (4) Gift or contribution

**S.122 Officers and Servants**

Subject to the provisions of this Act -

- (1) There shall be a Secretary for every Taluka Panchayat.
- (2) The Taluka Development Officer shall be an Officer belonging to state services.

**S.123 Powers and Functions of Taluka Development Officer**

The executive power of a Taluka Panchayat for the purpose of carrying out the provisions of this Act, shall vest in the Taluka Development Officer who shall -

- (1) Perform all functions and exercise all the powers conferred upon under the Act.
- (2) Lay down the duties of all officers and servants.
- (3) Subject to the other provisions of this Act the Taluka Development Officer shall be under the general control of the Taluka Panchayat.

#### **S.124 Budget**

Every Taluka Panchayat shall prepare annually on or before such date and in such form and manner as may be prescribed in this behalf a budget estimate of income and expenditure.

#### **S.129 Audit of Accounts**

### **DISTRICT PANCHAYAT**

#### **S.130 Meeting**

The meeting of a District Panchayat shall be held normally every three months.

#### **S.131 District Panchayat Committee, Powers & Functions**

A District Panchayat shall constitute the following committees:

- (1) An Executive Committee for performing the functions to finance homeguards and village defence.
- (2) Any other functions provided under the Act.

#### **S.138 Functions of the Panchayat**

- (1) Subject to the provisions of this Act it shall be the duty of each district to make in the area within its jurisdiction and so far as the fund at its disposal will allow, reasonable provision in regard to all or any of the matters specified in schedule II.

(2) The District Panchayat may with the previous sanction of the State Government incur expenditure on education, medical etc.

(3) General supervision of the district.

#### S.140 District Fund

There shall be in each district a fund which shall be called a District Fund. The following shall be paid into it:

- (1) The proceeds of tax
- (2) District Fund by the Government
- (3) Penalty sums
- (4) Sale of property etc.

#### S.141 Officers and Servants

- (1) There shall be a Secretary for every District Panchayat.
- (2) A District Development Officer posted under the Panchayat shall be ex-officio secretary of the Panchayat.

#### S.143 Powers and Function of District Development Officer

The executive power of a District Panchayat for the purpose of carrying out the provisions of the Act shall vest in the District Development Officer who shall:

- (1) Perform all the functions and exercise all powers specifically imposed or conferred upon him by or under the Act.
- (2) Lay down the duties of all officers and servants of the District Panchayat.
- (3) Shall supervise and control the execution of all activities of the District Panchayat.

- (4) Shall take necessary measures for the speedy execution of all works and development schemes of the District Panchayat.

#### **S.144 Budget Estimates**

Every District Panchayat shall prepare annually on or before such date and in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year.

#### **S.147 Accounts and their Audit**

### **CHAPTER - VIII**

#### **S.178 Taxation by Gram Panchayats and Nagar Panchayats**

- (1) Tax on buildings
- (2) Octroi on animals
- (3) Pilgrim tax
- (4) Tax on fairs and festivals
- (5) Vehicle tax
- (6) Toll tax on vehicles and animals
- (7) Sanitary charge
- (8) Water charges.

#### **S.183 Taxation by Taluka Panchayats**

Subject to any general or special orders which the State Government may make in this behalf every Taluka Panchayat may after observing the preliminary procedure required by section 189 impose an education cess and any of taxes and fees which are leviable by a Gram or Nagar Panchayat under section 178.

#### **S.185 Taxation by District Panchayat**

Subject to any general or special order which the State Government may make in this behalf, every District Panchayat

may after observing the preliminary procedure required under section 189 impose any of taxes and fees which are leviable by a Gram Panchayat under section 178.

#### CHAPTER - XII

##### S.212 Nyaya Panchayat

Section 212 to 285 deals with Nyaya Panchayats.

THE PUNJAB GRAM PANCHAYAT ACT 1952

CHAPTER - 1

PRELIMINARY

Short Title

- S.1 This Act may be called the Punjab Gram Panchayat Act 1952, applicable to the state of Haryana.

CHAPTER - II

SABHA AREAS AND ESTABLISHMENT AND CONSTITUTION OF

GRAM SABHA AND GRAM PANCHAYATS

S.4 Demarcation of Sabha Areas:

Government may by notification declare any Village or Group of contiguous villages with a population of not less than five hundred to constitute one or more Sabha areas.

S.5 Establishment and Constitution of Gram Panchayat

- (1) Government may by notification establish a Gram Panchayat by name in every Sabha areas.
- (2) Every Gram Panchayat shall consist of such number of Panchas including the Sarpanch not being less than five or more than nine as the government may determine. Such Panchas and the Sarpanch shall be elected by the Sabha from amongst its members.

Provided that if no woman is elected as a Panch of any Gram Panchayat, a woman member of the Sabha who is qualified to be so elected shall be co-opted as a Panch by the Panchayat. The election shall be by secret ballot and direct vote in the manner prescribed provided that;

- (1) Every Gram Panchayat shall subject to the provisions of sub-clause (b) have one panch belonging to SC if their population is five per cent of the Sabha area.
- (2) Every Gram Panchayat with seven or more Panchas shall have two Panchas who are members of the SC if their population is ten per centum of the Sabha area.
- (3) Every Gram Panchayat shall have one Panch belonging to the Backward Class if their population is two per centum or more of the population of the Sabha area.
- (4) No person who is not a member of the Sabha and who shall be entitled to stand for elections if;
  - (1) Not qualified to be elected as a MLA.
  - (2) Has been convicted of any offence.
  - (3) Has been convicted of an election offence.
  - (4) Is a whole time salaried servant of any local authority/State/Central Government.
  - (5) Is an undischarged insolvent etc.

#### S.9 Oath and Term of Office

- (1) The Sarpanch and Panchas shall take an oath in the form specified.
- (2) The Sarpanch and Panchas shall hold office for a period of five years.

#### S.12 Meetings and Quorum of Sabha

Every Sabha shall hold two general meetings in each year.

For any meeting of the Sabha one tenth of the total number of its members shall form a quorum.

## CHAPTER - II A

GRAM PANCHAYATS - CONDUCT OF BUSINESS DUTIES,  
FUNCTIONS AND POWERS

## S.14 Meetings

- (1) The meeting of the Gram Panchayat shall be public and shall be held at least once a month.
- (2) The Sarpanch or during the vacancy of the office such one of the members as the Panchas present may elect, shall preside as Chairman.
- (3) A majority of the Panchas shall form a quorum.

## S.15 Appointment of Gram Sachiv

There shall be a Gram Sachiv for a Gram Panchayat or a group of Gram Panchayats who shall be appointed by the Government.

## S.16 Duties of Gram Sachiv

- (1) It shall be the duty of Gram Sachiv to maintain accounts, record and other property of the Gram Sabha and the Gram Panchayat.
- (2) Carry out the resolutions of the Gram Panchayat.

## S.17 Employment of other Servants

Subject to such rules as may be and with the previous approval of the Panchayat Samiti, a Gram Panchayat may employ such other servants as may be necessary.

## S.19 Administrative Duties

It shall be the duty of the Gram Panchayat within limits of the funds at its disposal to do the following requirements;

- (1) Any public place including its sanitation and drains.
- (2) Wells, water pumps etc.

- (3) Ponds for animals
- (4) Libraries and reading rooms
- (5) Laying out new roads etc.

**S.20 Functions of Panchayat Samiti which may be delegated to Gram Panchayat:**

The Panchayat Samiti may and shall if so required by Government delegate any of the following duties;

- (1) Any matter under the direct administrative control of the Panchayat Samiti.
- (2) Maintenance or improvement of any property under the control or management of the Panchayat Samiti.
- (3) The control and management of cattle ponds which are under the control of the Panchayat Samiti.

## **CHAPTER - IV**

### **CRIMINAL JUDICIAL FUNCTIONS**

**S.38 Jurisdiction**

The criminal jurisdiction of a Gram Panchayat shall be conferred to the trial of offence specified in Schedule I-A.

**S.39 Additional Power of Gram Panchayat**

Every Panchayat with enhanced powers and every Adalati Panchayat shall have jurisdiction to try-

- (1) The offences mentioned in Schedule 1-B.
- (2) Any other offence not punishable with imprisonment for more than two years.

**CHAPTER - V****CIVIL AND REVENUE JUDICIAL FUNCTION****S.52 Powers**

Notwithstanding any other law for the time being in force and subject to the other provisions of this Act, the jurisdiction to try any of the suits mentioned here shall vest in Panchayat.

- (1) Suit for the recovery of movable property.
- (2) Suits for money or goods due on contracts.
- (3) Suits for compensation.
- (4) Suits mentioned in classes (j) (k) etc.

**S.57 Institutions**

Any person who wishes to institute a suit before a Panchayat shall present a petition in writing to the Sarpanch or in his absence to any Panch and shall at the same time pay the fees prescribed in (iii).

**CHAPTER - VII****FINANCE AND TAXATION****S.80 Gram Fund**

There shall be a Gram Fund for each Panchayat and the same shall be utilised for carrying out the duties and obligations imposed on the Panchayat.

**S.81 Sources of Gram Fund**

The following moneys shall be credited to the Gram Fund;

- (1) All grants from Government or other local authorities.

- (2) All balances standing at the credit of the Panchayat
- (3) All donations.
- (4) All taxes, duties, cess and fees.

#### S.82 Power of Taxation

Subject to rules made under this Act or any order made by Government in this behalf, a Gram Panchayat shall impose;

- (1) House Tax.
- (2) Tax on profession, trade etc.
- (3) Fees for registration of animals.
- (4) Water rate

#### S.84 Expenses of Gram Panchayats

The expenses of the Gram Panchayats shall be charged to the Gram Fund and those of the Adalti Panchayat on the funds of the Gram Panchayat.

#### S.85 Recovery of Arrears

The collector shall recover any sum due under this Act other than sum due under a decree passed by the Panchayat.

### CHAPTER - VIII

#### THE PANCHAYAT UNION (DELETED)

### CHAPTER - IX

#### CONTROL

#### S.95 Delegation of Powers

- (1) Government may by notification delegate all or any of its powers under this Act other than the Power to make rules to a Deputy Commissioner or the Director, Panchayats.

- (2) The Director may with the previous permission of Government delegate any of his powers other than those delegated to him to an officer not below the rank of District Panchayat Officer.
- (3) The Chief Judicial Magistrate may delegate any of his powers to a first class Judicial Magistrate.
- (4) The District Judge may delegate any of his powers to an Assistant Collector of the first grade.
- (5) The Collector may delegate any of his powers to an Assistant Collector of the first grade.

#### **S.95-A Power to Hold Elections**

Notwithstanding anything contained in this Act, Government may by notification direct that a general election of Panchas of all Gram Panchayats and Co-option of Panchas of such Gram Panchayats shall be held.

#### **S.96 Access to Gram Panchayat Records**

A Gram Panchayat shall at all reasonable times permit any officer or any other officer deputed and authorised to have access to all its books, proceedings and records.

#### **S.97 Power to Suspend Action of Gram Panchayat**

The Deputy Commissioner or the S.D.O may by written order suspend the execution of any resolution or order of the Gram Panchayat.

#### **S.101 Power to Make Rules**

The Government may make rules consistent with this Act to carry out the purposes. Thereof and may provide that the breach of any such rule be punishable with a fine.

**S.102 Suspension and Removal of Panchas etc.**

- (1) The Director may suspend any Panch where a case against him in respect of any criminal offence is under investigation, enquiry or trial, if in the opinion of the Director, the charge made or proceeding taken against him is likely to embarrass him in the discharge of his duties or involves moral turpitude.
- (2) The Director may after such enquiry as he may deem fit remove any Panch on specified grounds.

**S.103 Suspension or Supersession of Gram Panchayats**

If in the opinion of the Government a Gram Panchayat is in competent to perform or persistently makes default in the performance of the duties imposed on it by or under this or any other Act exceeds or abuses its powers the Government may after giving the Panchayat a reasonable opportunity supersede or suspend it.

**CHAPTER - X****MISCELLANEOUS****S.104 Bar of Actions**

- (1) No suit or other legal proceedings in a Civil or Criminal Court shall be against any panch in respect of any act done in good faith under this Act.
- (2) No Civil or revenue suit or proceedings shall be against any Gram Panchayat in respect of any act done in the discharge of any of its duties imposed under this Act.

**S.106 Resignation**

A member of a Panchayat may resign his office of a Panch or Sarpanch by notifying in writing his intention to do so to the Deputy Director of Panchayat and on such resignation being accepted shall be deemed to have vacated his office.

**S.107 Appointment of Director and other Staff**

The Government may appoint a person to be the Director of Panchayats for the State and may appoint as many Additional Directors, Joint Directors as well as the staff and establishment as may be required to assist him.

**S.108 Suits against Panchayat or its Officers**

No suit or legal proceeding shall be instituted against any officer or servant of a Gram Panchayat or an Adalti Panchayat or any person acting under their direction for anything done in good faith under this Act, until the expiration of two months next after a notice in writing has been issued.

**S.112 Joint Works or undertakings**

Subject to such restrictions as may be prescribed a Gram Panchayat may unite with any other body or bodies regarding.

- (1) In works undertakings which benefit the Gram Panchayat.
- (2) In appointing Joint Committees.
- (3) Contribute funds to any work or institution which benefits the Gram Panchayat.

**S.113 Budget and Annual Reports**

Every Gram Panchayat shall prepare and lay before the Sawani meeting of the Sabha a budget estimate of its income and

expenditure for the year commencing on the first day of Baisakha next.

## **THE PUNJAB PANCHAYAT SAMITIS AND ZILLA PARISHADS ACT 1961**

### **CHAPTER - I**

#### **PRELIMINARY**

##### **S.1 Short Title**

- (1) This Act may be called the Punjab Panchayat Samitis Act 1961.
- (2) It shall apply to the State of Haryana.

### **CHAPTER - II**

#### **CONSTITUTION OF PANCHAYAT SAMITIS AND**

#### **CONDUCT OF THEIR BUSINESS**

##### **S.3 Power to Declare Constitution of Panchayat Samitis**

- (1) The Government may constitute Panchayat Samities for every block in a District.

##### **S.5 Constitution of Panchayat Samitis**

- (1) A Panchayat Samiti shall be constituted for a block and it shall consist of the following members.

##### **Primary Members**

- (1) Sixteen members from the block to be elected by the panchas and the sarpanch of the Gram Panchayat in the block amongst themselves.
- (2) Two members representing the co-operative societies within the jurisdiction of the Panchayat Samiti to be elected by the members of such societies.

- (3) One member representing the Market Committees.
- (b) Every member of the Haryana Legislative Assembly representing the constituency of which the block forms part shall be Associate Member.
- (c) **Co-opted Members**
  - (1) Two woman if no women is elected.
  - (2) Four persons of SC/ST if no such person is elected.
  - (3) One person belonging to BC if no such person is elected.
- (d) **Ex-officio Members**

The Sub-Divisional Officer having jurisdiction in the block and the BDO and Panchayat Offices of the block. They shall not be entitled to vote.

#### **S.6 Disqualifications**

A person shall be disqualified if;

- (1) He is less than Twenty five years.
- (2) Is a salaried person of State/Central Government or local bodies.
- (3) Is of unsound mind.
- (4) Not a citizen of India etc.

#### **S.8 Term of Office**

The term of office of primary and co-opted members other than member elected to fill a casual vacancy shall be five years.

#### **S.10 Notification of Election**

Every election and co-option of a member and the election of the Chairman and the Vice-Chairman of a Panchayat Samiti shall be notified by the Deputy Commissioner concerned.

**S.11 Resignation of Members**

A member may resign his office by notifying in writing, his intention to do so, to the Chairman of the Panchayat Samiti or the Deputy Commissioner.

**S.15 Vacation of Seats**

The Chairman, Vice-Chairman or a member of a Panchayat Samiti shall cease in case.

(1) He is disqualified under Section 6.

(2) He absents himself without the permission of the Panchayat Samiti from more than three Consecutive ordinary meetings of the Samiti.

**S.17 Chairman and Vice-Chairman**

Notified by the Deputy Commissioner and a meeting called of the Panchayat Samiti to elect the Chairman and Vice-Chairman from amongst the primary and co-opted members.

**S.18 Term of Office of Chairman and Vice-Chairman**

The term of office of the Chairman and Vice-Chairman of a Panchayat Samiti shall be five years.

**S.19 Resignation of Chairman and Vice-Chairman**

(1) The Chairman or Vice-Chairman of the Panchayat Samiti may resign his office by notifying in writing his intention to do so.

(2) The Panchayat Samiti shall elect a new Chairman or Vice-Chairman in the same meeting at which his resignation is accepted.

**S.21 Executive officer**

The BDO and Panchayat Officer shall be the ex-officio executive officer of the Panchayat Samiti.

**S.22 Meetings**

A Panchayat Samiti shall ordinarily meet at least six times in each year.

**S.27 Quorum**

For the transaction of business at a meeting of a Panchayat Samiti the quorum shall be;

- (1) If it is an ordinary meeting one-third
- (2) If it is a special meeting then one half.

**CHAPTER - III****EXECUTIVE AUTHORITY AND SERVANTS OF THE PANCHAYAT SAMITI****S.31 Executive power of Panchayat Samiti**

The executive power of a Panchayat Samiti shall vest in the Chairman of the Panchayat Samiti and the Executive Officer thereof.

**S.35 Government Servants at Disposal of Panchayat Samitis**

The Government may, by notification place at the disposal of a Panchayat Samiti such of its servants as are required for implementation of the schemes.

**S.39 Common Service in Panchayat Samitis**

The Government may, if it is satisfied that the appointment of an Engineer, a Health Officer or any other functionary for two or more Panchayat Samitis, by order in writing may make provisions.

## CHAPTER - IV

## DUTIES AND POWERS OF PANCHAYAT SAMITIS

S.41 Subject to such exceptions and conditions as the Government may lay, it shall be the duty of a Panchayat Samiti to provide for and make arrangements under its jurisdiction in respect of the following matters;

- (1) Agriculture.
- (2) Animal husbandry and fisheries.
- (3) Health and Rural Sanitation.
- (4) Communication
- (5) Social Education
- (6) Co-operation
- (7) Miscellaneous

S.42 **Entrustment of Functions**

The Government may entrusts to a Panchayat Samiti functions in relation to any matter.

S.43 **Community Development Programme**

Within the area subject to its authority a Panchayat Samiti shall be the agent of the Government for formulation and execution of the Community Development Programme.

S.44 **Relationship with Gram Panchayat**

A Panchayat Samiti in the manner prescribed exercise such supervision and control over the performance of all or any of the administrative functions of the Gram Panchayats.

S.55 **Delegation of Powers of the Chairman**

The Chairman by an order in writing delegate any of his powers and functions to the Vice-Chairman.

**S.56 Joint Works**

A Panchayat Samiti may contribute towards any work, measure that may benefit the Panchayat.

**S.59 Appointment of Standing Committee**

Every Panchayat Samiti shall appoint the following Standing Committees.

- (1) Finance and Taxation
- (2) Agriculture and Animal husbandry etc.
- (3) Education, Housing etc.

**CHAPTER - V****FINANCE AND TAXATION****S.65 Power of Taxation**

Subject to general direction and Control of the Government a Panchayat Samiti may with the previous permission of the concerned, impose any tax which the Legislature of a State has power to impose.

**S.68 Levy of Fees**

With the previous sanction of the Deputy Commissioner and subject to the general direction and control by the Government, a Panchayat Samiti may;

- (1) Levy fees for the use of or benefits derived from Public Hospitals, Schools, Markets etc.
- (2) Fix fees at fair, agricultural shows, under its authority.

**S.76 Recovery of Taxes etc.**

All arrears of taxes, cesses and fees imposed under this Act and all arrears of sum due from a contractor on account of the collection of fees and tolls leased under section 75 may be recovered as arrears of land revenue.

**S.78 Samiti Fund**

There shall be formed for every Panchayat Samiti a Fund to be called the Samiti Fund and there shall be placed to the credit thereof:

- (1) Apportionment made by the Government under Sec.118.
- (2) All proceeds allotted to the Panchayat Samiti under Section 63.
- (3) The proceeds of all taxes, cesses and fees.
- (4) All funds allotted to the Panchayat Samiti.
- (5) All funds contributed by the Central/State Government.

**S.80 Application of Samiti Fund**

The Samiti Fund shall be applicable to the payment in whole or in part of the charges and expenses incidental to the several matters specified in Section 35 to 41.

**S.82 Annual Estimates of Income and Expenditure (Budget)**

Every Panchayat Samiti shall on or before a prescribed day in each year hold a meeting at which the Standing Committee for Finance and Taxation shall submit to the Panchayat Samiti an estimate of income and expenditure of the Samiti for the next financial year.

**S.83 Audit of Accounts**

Accounts of the receipts and expenditure of every Panchayat Samiti shall be made up in such form as may be prescribed and

the Panchayat Samiti shall make arrangements for the examination and audit of the accounts by such persons as the Government appoints in this behalf.

#### CHAPTER - VI

(Section 86 - 100 omitted)

#### CHAPTER - VI

##### SUPERVISION

##### S.101 Supervision by Deputy Commissioner

The Deputy Commissioner concerned shall have powers to enter on and inspect any property, record, document, accounts etc. of the Panchayat Samiti.

##### S.102 Supervision by Government

The Government shall advice, supervise and co-ordinate the functions of the Panchayat Samitis.

##### S.103 Power to Cancel or Suspend Resolutions

The Government may by order in writing cancel any resolution passed by a Panchayat Samiti or any Standing Committee on prescribed grounds.

##### S.103 Suspension and Removal of Members

The Government may during the course of any inquiry suspend a member of a Panchayat Samiti for any of the reasons for which he can be removed and debar him from taking part in any act or proceedings.

##### S.104 Power of Government to Supersede

If a Panchayat Samiti is not competent to perform or persistently makes default in the performance of the duties

imposed upon it or under this Act, the Government may, ~~suo~~  
~~moto~~ or on a report received in this behalf and after giving  
 an opportunity to the Panchayat Samiti by notification  
 supersede the Panchayat Samiti.

**S.105-A Ceasing of Panchayat Samitis to Function**

If at any time the primary and co-opted members of a Panchayat  
 Samiti other than that mentioned in sub-section (3) of Section  
 5 are reduced to less than twelve in number, the Panchayat  
 Samiti shall cease to function.

**S.111 Enquiry into Affairs of Panchayat Samitis**

The Government may at any time cause an enquiry to be made by  
 any of its officers into the affairs of a Panchayat Samiti  
 concerning any matter.

**S.113-A Power of Government to hold General Election**

Notwithstanding anything contained in this Act or the rules  
 made thereunder, the Government may by notification direct  
 that by such date as may be a general election of primary  
 members of all Panchayat Samitis and co-option of members to  
 all Panchayats Samitis be held.

**S.115 Power of Government to Make Rules**

The Government may by notification in the Official Gazette  
 make rules for carrying out the provisions of this Act.

**CHAPTER - VIII**

**MISCELLANEOUS**

**S.118 Allowances to Members etc.**

Every non-official member of a Panchayat Samiti and a standing or  
 consultative committee shall be paid such allowances as may be  
 prescribed.

**S.125 Panchayat Samitis to be Local Authorities**

THE KARNATAKA ZILLA PARISHADS, TALUK PANCHAYAT SAMITIES,  
MANDAL PANCHAYATS AND NYAYA PANCHAYATS ACT, 1983

CHAPTER - I

PRELIMINARY

S.1 Short Title

This Act may be called the Karnataka Zilla Parishads, Taluk Panchayat Samities, Mandal Panchayats and Nyaya Panchayats Act.

CHAPTER - II

GRAM SABHA

S.3 Gram Sabha

- (1) All persons whose names are included in the electoral roll of the Zilla Parishad for the time being in force pertaining to the Village shall be deemed to be constituted as Gram Sabha of such village.
- (2) Subject to the general orders of the Government, the Gram Sabha shall meet from time to time but six months shall not intervene between any two meetings.
- (3) The following matters shall be considered by the Gram sabha;
  - (1) The report placed before it
  - (2) Proposals for new programme for village development.
  - (3) Building up Land Army
  - (4) Programme of Adult Education.
- (4) Every meeting of the Gram Sabha shall be presided by the Pradhan of the concerned Mandal Panchayats.

- (5) The Gram Sabha shall perform the following functions:
  - (1) Prepare and promote development scheme.
  - (2) Organise sanitation and drainage schemes.
  - (3) Mobilise voluntary labour.
  - (4) Assist Mandal Panchayat in implementing development schemes.

### CHAPTER - III

#### Establishment and Constitution of Mandal Panchayats

##### S.4 Declaration of Mandal and Establishment of Mandal Panchayat

- (1) Subject to the general or special order of the Government, the Deputy Commissioner may, if in his opinion it is expedient to declare any area comprising a Village or Group of Villages having a population of not less than ten thousand and not more than fifteen thousand declare any such area as a Mandal.

##### S.5 Constitution of Mandal Panchayats:

- (1) The Mandal Panchayat shall consist of such number of elected members as may be notified from time to time by the Government, at the rate of one member for every five hundred population.
  - (2) Such number of seats, which shall as nearly as may be twenty-five percent of the total number of the members of the Mandal Panchayat shall be reserved for women in every Mandal Panchayat.
6. Seats shall be reserved in Mandal Panchayat for scheduled castes and scheduled tribes bearing as nearly as may be

the same proportion to the total number, of seats in the Mandal Panchayat as the population of SC/ST bears to the total population of the Mandal.

**S.6 Every Mandal Panchayat shall be a Body Corporate.**

**S.7 Method of Voting**

Every voter shall have as many votes as there are members to be elected for the constituency. No voter shall give more than one vote to any one candidate.

**S.8 Appointment of Administrator**

If the Deputy Commissioner is satisfied that a Mandal Panchayat of a Mandal immediately after the establishment of such Mandal Panchayat cannot be constituted by reasons the Deputy Commissioner shall appoint Administrative Committee of an Administrator.

**S.10 Qualifications**

Every person whose name is in the list of voters of any Mandal Panchayat Constituency shall, unless disqualified under this Act shall be qualified to be elected as a member of the Mandal Panchayat.

**S.11 Disqualifications**

A person shall be disqualified for being chosen or nominated and for being a member of a Mandal Panchayat.

- (1) If he is less than 21 years of age.
- (2) Does not ordinarily reside in the Mandal.
- (3) Has been sentenced by a Criminal Court.
- (4) Undischarged solvent
- (5) Unsound mind etc.

**S.13 Prohibition of Simultaneous Membership**

If a person is elected by more than one Mandal Panchayat Constituency, he shall by notice in writing choose any one of the constituencies which he shall serve and the choice shall be final.

**S.39 Term of Office**

The members of a Mandal Panchayat shall, save as otherwise provided in this Act hold office for a term of five years.

**S.41 Resignation**

A member of a Mandal Panchayat may resign his membership in writing and addressed to the Pradhan.

**S.42 Election of Pradhan & Up-Pradhan**

Every Mandal Panchayat shall as soon as be choose two members of the Mandal Panchayat to be Pradhan and Up-Pradhan.

**S.44 Term of Office**

- (1) The term of office of every Pradhan and Up-Pradhan shall cease on the expiry of his term of office as member of the Mandal Panchayat.
- (2) After the expiry of his term of office he shall continue to discharge his duties till such time as a new Pradhan shall be elected.
- (3) There shall be paid monthly salary of Rs.300 to the Pradhan and Rs.150 to the Up-Pradhan.

**S.46 Resignation of Pradhan and Up-Pradhan**

- (1) The Pradhan may resign his office by writing and addressed to the Deputy Commissioner.

- (2) The Up-Pradhan may resign his office by writing and addressed to Pradhan and in his absence to Deputy Commissioner.

#### S.47 Motion of No-Confidence

- (1) A motion expressing want of confidence in the Pradhan or Up-Pradhan may be made in accordance with the procedure laid down.
- (2) A written notice signed, not less than one half of the total number of members of the Mandal Panchayat shall be delivered in person by any two of the members signing to the Deputy Commissioner.

#### S.50 Meeting of Mandal Panchayat

A Mandal Panchayat shall meet for the transaction of business at least once in every month at the office of the Mandal Panchayat.

#### S.51 Quorum

The quorum for a meeting of the Mandal Panchayat shall be one-third of the total number of members.

### CHAPTER - IV

#### S.56 Functions of Mandal Panchayats

It shall be the duty of every Mandal Panchayat as far as the funds at its disposal allow make reasonable provision within the Mandal in regard to the following matters.

- (1) Sanitation and Health.
- (2) Public Works and amenities.
- (3) Agriculture and Animal Husbandry.
- (4) Welfare of SC/ST and B.C.

**S.58 Government Power**

The Government may in consultation with the Mandal Panchayat concerned exercise any function or perform any duties other than those specified in section 56 and 57.

**S.60 General Powers of the Mandal Panchayat**

Every Mandal Panchayat shall constitute the following committees;

- (1) Production Committee
- (2) Social-justice Committee
- (3) Amenities Committee.

**S.61 Functions of the Pradhan**

The Pradhan shall, in addition to the functions and powers exercisable under the Act,

- (1) Convene meeting of the Mandal Panchayat.
- (2) Have access to the records.
- (3) Exercise supervision and control over the acts of the employees and officers of the Mandal.

**S.71 Transfer of Institutions or Works to Mandal Panchayat**

Subject to such rules as may be prescribed by the Government, the Deputy Commissioner with the consent of the Mandal Panchayat transfer any institution or work to be performed.

**CHAPTER - V****PROPERTY AND FINANCE****S.112 Property of the Mandal Panchayat**

It shall be competent to a Zilla Parishad with the concurrence of the Mandal Panchayat from time to time to direct that any

property vesting in the Zilla Parishad shall vest in the Mandal Panchayat.

**S.114 Mandal Panchayat Fund**

There shall be for each Mandal Panchayat a Fund called the Mandal Fund.

- (1) Fund from the Government or Zilla Parishad.
- (2) Proceeds from any tax imposed by the Mandal Panchayat.
- (3) Sums received as loans.
- (4) Sums received as grants etc.

**S.116 Taxes and Fees**

Every Mandal Panchayat shall in such manner and subject to such exemptions levy a tax.

- (1) On buildings
- (2) Tax on entertainment
- (3) Vehicle Tax
- (4) Fee on bus stand
- (5) Fee on markets.

**S.120 Recovery of Taxes and Dues**

When any tax or fee has become due the Mandal Panchayat shall cause a writ of demand in the prescribed manner to be served on the defaulter.

**S.121 Schedule of Employees**

A Mandal Panchayat shall determine and submit information to the Zilla Parishad a schedule of employees required for carrying out the duties imposed upon the Mandal Panchayat by or under this Act.

**S.123 Appointment of Employees**

As provided in section 121 the Mandal Panchayat may appoint the employees of the Mandal Panchayat and pay their salaries from the Mandal Panchayat Fund.

**S.124 Budget and Accounts**

A Mandal Panchayat shall approve annually and shall forward to the Zilla Parishad on or before such date and in such form as may be prescribed in a budget estimate.

**S.126 Audit of Accounts**

The accounts of the Mandal Panchayat shall be audited each year by such officer as may be authorised by the Controller of State Accounts.

**CHAPTER - VI**

Provision for Conversion of a Municipality or a Notified Area Committee into a Mandal Panchayat and for the Amalgamation and Division of Mandal Panchayats.

**CHAPTER - VII****S.135 Constitution of Taluk Panchayat Samiti**

- (1) The Government shall by notification constitute for each Taluk a Taluk Panchayat Samiti.
- (2) The Taluk Panchayat shall consist of
  - (1) members of the State Legislature representing a part or whole of the Taluk.
  - (2) Members of the Zilla Parishad representing a part or whole of the Taluk.
  - (3) Pradhan of Mandal Panchayats.

- (4) President, Taluk Agricultural Produce Cooperative Marketing Society.
- (5) President Primary Land Development Bank.
- (6) Five members belonging to SC/ST/BC, Women Co-opted by resolution of the Taluk Panchayat Samiti and approved by Zilla Parishad.

Not less than 18% of the members shall belong to SC/ST.

M.L.A. representing the major part of the Taluk shall be the Chairman.

#### **S.136 Functions of the Taluk Panchayat Samiti**

The Taluk Panchayat Samiti shall perform the following functions:

- (1) Advise the Mandal Panchayats.
- (2) Exercise power specified by the Zilla Parishad in relation to works and development schemes.
- (3) Enter and inspect immovable property, institution, work in progress etc. within the Taluk.
- (4) Review the work of Mandal Panchayats.
- (5) Guidance or assistance to the Mandal Panchayats.

#### **S.137 Assistance to the Taluk Panchayat Samiti**

The officers working in the Taluk shall assist the Taluk Panchayat Samiti in the discharge of its functions.

### **CHAPTER - VIII**

#### **CONSTITUTION OF ZILLA PARISHAD**

#### **S.138 Establishment of Zilla Parishad**

For each district, there shall be a Zilla Parishad having jurisdiction over the entire district excluding Municipal Corporations etc.

**S.139 Composition**

- (1) Every Zilla Parishad shall consist of elected members as is determined under section 140.
- (2) The Chairman or President of the Central Co-operative Bank shall be an associate member of the Zilla Parishad.
- (3) The members of the State Legislative Assembly and the State Legislative Council and the members of Parliament representing a part or whole of the district whose constituencies lie within the jurisdiction of the Zilla Parishad shall be entitled to take part in the proceedings and shall vote.

**S.142 Reservation for Women**

Seats shall be reserved in a Zilla Parishad for women and the number of seats so reserved shall be not less than twenty-five percent of the number of elected members.

**S.143 Reservation for SC/ST**

Seats shall be reserved in Zilla Parishad for SC/ST in proportion to their population, such reservation shall not be less than eighteen percent of the total number of seats in the Zilla Parishad.

**S.145 Electoral Roll**

For every Zilla Parishad there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act.

**S.153 Qualifications of a Candidate**

Subject to the provisions of sub-section (2) no person shall be qualified to be chosen to fill a seat in any Zilla Parishad unless;

- (1) He is a citizen of India and more than 25 years of age.
- (2) His name is included in the electoral roll of Zilla Parishad.

#### **S.154 Disqualifications**

A person shall be disqualified for being chosen as and for being a member of the Zilla Parishad.

- (1) If he has been sentenced by a Criminal Court to imprisonment.
- (2) If he has been dismissed from Government Service.
- (3) Absents himself from more than two consecutive ordinary meetings of Zilla Parishad.

#### **S.157 Prohibition of Simultaneous Membership**

If a person is elected by more than one Zilla Parishad he shall by notice in writing to the Deputy Commissioner choose any one of the constituencies.

#### **S.160 Term of Office of Members**

Except as is otherwise provided in this Act, members of the Zilla Parishad shall hold office for a term of five years.

#### **S.162 Resignation of Members**

A member of a Zilla Parishad may resign his membership in writing under his hand addressed to the Adhyaksha of the Zilla Parishad and his seat shall be vacant.

#### **S.165 Election of Adhyaksha, Up-Adhyakshas and Term of Office**

Every Zilla Parishad shall as soon as may be chosen, elect two members of the Zilla Parishad to be respectively Adhyaksha or Up-Adhyaksha. They shall hold office for the term of the members of the Zilla Parishad.

**S.167 Resignation and Removal**

A member holding office as Adhyaksha may resign his office by writing to the Commissioner and the Up-Adhyaksha shall write to the Adhyaksha.

**S.168 Powers and Duties of Adhyaksha**

The Adhyaksha shall be the executive head of the Zilla Parishad and shall perform all the duties under the Act.

**S.169 Powers and Duties of Up-Adhyakshas**

1. In the absence of Adhyaksha, preside over the meeting.
2. Such other duties assigned by the Adhyaksha.

**S.170 Meetings of the Zilla Parishad**

A Zilla Parishad shall hold a meeting at least once in every month. One third of the total number of members of the Zilla Parishad shall form a quorum.

**S.173 Secretary and Other Officers**

- (1) An officer not below the rank of the Deputy Commissioner of a district shall be the Chief-Secretary of the Zilla Parishad.
- (2) The Government shall appoint a Chief Accounts Officer and a Deputy Secretary for each Zilla Parishad.

**S.174 Functions of the Secretary**

- (1) Subject to the general powers of the Adhyaksha under Section 168 the Secretary shall perform the following functions:
  - (1) Exercise the powers and discharge the duties under the Act.

- (2) Control the officers and servants of the Zilla Parishad subject to the general control of the Adhyaksha.
- (3) The Secretary shall attend every meeting of the Zilla Parishad.

**S.177 Standing Committee**

- (1) The Zilla Parishad shall have the following standing Committees:
  - (1) General Standing Committee.
  - (2) Finance and Audit Committee.
  - (3) Planning and Development Committee.
  - (4) Public works and Amenities Committee.
  - (5) Social-Justice Committee
  - (6) Education Committee.
  - (7) Agriculture and Animal Husbandry Committee.
  - (8) Health Committee.
  - (9) Industries Committee.
- (2) Each Standing Committee shall consist of not more than six members including the Chairman.
- (3) The Secretary of the Zilla Parishad shall be the ex-officio Secretary of every Standing Committee.

## CHAPTER - IX

## FUNCTIONS OF ZILLA PARISHADS

S.182 Subject to such exceptions, restrictions, and conditions as may from time to time be specified by order of the Government the Zilla Parishad shall make reasonable provision for the following within its jurisdiction.

- I. Development programmes.
- II. Agriculture.
- III. Animal Husbandry.
- IV. Welfare of SC/ST/BC.
- V. Building and Communications
- VI. Public Health.
- VII. Irrigation and Ground water resources.
- VIII. Industries and Cottage Industries.
- IX. Horticulture.
- X. Co-operation.
- XI. Education and Social Education.
- XII. Statistics.
- XIII. Fisheries.
- XIV. Rural Electrification.
- XV. Distribution of essential commodities.

**S.183 Formulation and Execution of District Plans**

- (1) The Zilla Parishad shall formulate and execute the District Plans of the district.

**S.184 Transfer of Functions of Government to Zilla Parishad**

- (1) Notwithstanding any thing contained in any law the Government may subject to such conditions entrust to a

Zilla Parishad such power and functions relating to any matter.

## CHAPTER - X

### PROPERTY AND FINANCE

#### S.190 Zilla Parishad Funds

There shall be for each Zilla Parishad a Fund called the Zilla Parishad Fund.

#### S.191 Composition of Zilla Parishad Fund

The following shall form part of the Zilla Parishad Fund.

- (1) Amount transferred to Zilla Parishad from State Government.
- (2) Grants, loans etc. from the Government.
- (3) Fees and penalties collected.
- (4) Rents from lands etc.

#### S.198 Presentation of Accounts and Budget

The Finance and Audit Committee shall cause to be prepared and laid before the Zilla Parishad at a meeting which shall be held between the first day of November and first day of January, a complete account of the actual and expected receipts and expenditure for the financial year ending on 31st March.

#### S.200 Maintenance of Accounts and Restriction of Expenditure

Accounts of the income and expenditure of the Zilla Parishad fund shall be kept in accordance with such rules as prescribed.

**S.203 Audit of Accounts**

The accounts of the Zilla Parishad fund shall at least once in every year be audited in such manner as prescribed by the Accountant General of Karnataka.

**S.210 Finance Commission for Zilla Parishad**

- (1) The Government shall within six months from the date of commencement of this Act, thereafter at the expiration of every fifth year or at such earlier time as the Government may consider necessary, constitute a Finance Commission which shall consist of a Chairman and two other members.
- (2) The Finance Commission shall go into the problems of income and expenditure in respect of the Zilla Parishad.

**CHAPTER - XI****ESTABLISHMENT AND CONSTITUTION OF NYAYA PANCHAYAT**

S.211 For disposal of cases specified in Chapter XII, Government may by notification and on the recommendation of the Zilla Parishad establish a Nyaya Panchayat for every Mandal.

**S.212 Constitution**

A Nyaya Panchayat shall consist of five members of proportional representation by single transferable vote by the Mandal Panchayat concerned of whom at least one member shall be a women, one SC/ST and one BC.

S.213 A person shall be disqualified for being chosen as and for being a member of the Nyaya Panchayat.

- (1) If he holds any office under Mandal Panchayat.
- (2) If a unsound mind.

- (3) Undischarged solvent
- (4) Dismissed from Government service.

**S.216 Term of Office of Member of Nyaya Panchayat**

The term of office of the members of Nyaya Panchayat shall be twenty months.

**S.218 Mukhya Nyaya Vicharaka**

The members shall elect in the prescribed manner one from among themselves to be a Mukhya Nyaya Vicharaka of the Nyaya Panchayat.

**S.19 Duties of Mukhya Nyaya Vicharaka**

- (1) Shall preside over every sitting of the Nyaya Panchayat.
- (2) Shall perform such duties as specified in this Act.

**S.222 Secretary of Nyaya Panchayat**

The Secretary of the Mandal Panchayat shall be the Secretary of the Nyaya Panchayat and shall assist the Nyaya Panchayat in the performance of its functions.

## **CHAPTER - XII**

### **CIVIL AND CRIMINAL JURISDICTION**

**S.223** The Nyaya Panchayat shall try civil and criminal cases of the nature specified in this chapter.

**A - Civil Jurisdiction**

Section 224 to 229 deals with Civil cases.

**B - Criminal Jurisdiction**

Section 230 to 238 deals with criminal cases.

**CHAPTER - XIII****PROCEDURE****S.239 Benches of Nyaya Panchayat**

Subject to such rules as may be prescribed, a Nyaya Panchayat may discharge its functions under this Act through benches constituted by the Mukhya Nyaya Vicharaka from among its members.

**S.240 Procedure in Civil and Criminal Cases**

Section 241 to 248 deals with procedure.

**CHAPTER - XIV****JUDICIAL CONTROL OF NYAYA PANCHAYAT**

Section 249 to 266 deals with Judicial Control of Nyaya Panchayat.

**S.267 Power to Dissolve Nyaya Panchayats**

If in the opinion of the Government a Nyaya Panchayat has abused its powers or has made persistent default in the performance of its functions the Government may after giving the Nyaya Panchayat an opportunity of furnishing an explanation by order notified in the official Gazette dissolve the Nyaya Panchayat.

**CHAPTER - XV****MISCELLANEOUS****S.268 Delegation of Powers**

The Zilla Parishad may by notification delegate to the Secretary or any other officer the powers conferred by or under this Act on Zilla Parishad.

#### S.269 Zilla Parishads Powers in Respect of Mandal Panchayat

The Zilla Parishad may in respect of Mandal Panchayats exercise the following powers;

- (1) Call for proceedings of any Mandal Panchayat.
  - (2) Require a Mandal Panchayat to take into consideration any objection which appears to it to exist.
  - (3) Direct a Mandal Panchayat to levy any tax.
  - (4) Call for meeting of Mandal Panchayat.
2. The Mandal Panchayat may appeal to the Government against any order under clause (c) of sub-section (1) by the Zilla Parishad within thirty days from the date of the order.

S.270 If in the opinion of the Zilla Parishad, the execution of any order or resolution of a Mandal Panchayat or any order of any authority or officer of a Mandal Panchayat is unjust, unlawful, or improper it may by order suspend the execution or prohibit the doing thereof.

#### S.271 Dissolution of Mandal Panchayat or Zilla Parishad

- (1) If in the opinion of the Zilla Parishad, a Mandal Panchayat exceeds or abuses its powers or makes persistent default in the performance of the duties imposed on it under the Act the Zilla Parishad may by order dissolve such Mandal Panchayat.
- (2) If in the opinion of the Government, a Zilla Parishad exceeds or abuses its powers or is not competent to perform or makes persistent default in the performance of

the duties imposed on it under the Act the Government may dissolve such Zilla Parishad.

**S.284 Power to Make Rules**

The Government after previous publication by notification in the Official Gazette make rules to carry out the purposes of this Act.

**S.285 Power of Zilla Parishad to Make Regulations.**

**S.286 Power of Mandal Panchayats to Make Bye-laws.**

**S.309 Annual Administration Report**

As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Government the Pradhan shall place before the Mandal Panchayat a report of the administration of the Mandal Panchayat to the Government.

**S.319 Rules and Orders to be Laid Before the Houses of State Legislature**

Every rule made under section 284 and every order made under Section 318 shall be laid, as soon as may be before each house of the State Legislature.

**MADHYA PRADESH PANCHAYATI RAJ ADHINIYAM 1990****PRELIMINARY****CHAPTER - I****Short Title**

- S.1 This Act may be called the Madhya Pradesh Panchayati Raj Adhiniyam 1990.

**CHAPTER - II****ESTABLISHMENT OF GRAM SABHA****S.4 Establishment of Gram Sabha**

The State Government or the prescribed authority shall by order establish a Gram Sabha for a Patwari Circle and specify the name.

**S.5 Constitution of Gram Sabha**

A Gram Sabha shall consist of all persons whose names are included in the list of voters prepared under Section 6.

**S.8 Meeting of Gram Sabha**

- (1) There shall be held at least one meeting of a Gram Sabha every year.
- (2) For an meeting of the Gram Sabha, one tenth of the total number of members of the Gram Sabha shall form the quorum.
- (3) The meeting of the Gram Sabha shall be presided over by Sarpanch.

## CHAPTER - III

## ESTABLISHMENT OF PANCHAYATS

- S.10 (1) There shall be a Gram Panchayat for every Gram Sabha, provided that in a Gram Sabha where there are maximum three villages with a consolidated population of more than 5000, there shall be a Nagar Panchayat.
- (2) For every block there shall be a Janapada Panchayat which shall be known by the name of the block.
- (3) The State Government may by notification establish a Zilla Parishad having jurisdiction over the district.

## S.12 Wards

Every Gram Sabha shall be divided into not less than ten wards as may be determined by the Collector. Provided further that every village having more than 100 population included in the Gram Sabha shall have at least one ward.

## S.13 Constitution of Gram Panchayat:

Every Gram Panchayat shall consist of;

- (1) Panchas elected from the wards and elected Sarpanchs; and
  - (2) Panchas co-opted if any under sub-section (4) or (5).
- (2) Out of total number of wards of Gram Sabha twenty percent wards subject to minimum of two shall be reserved for women.
- (3) Where there are persons belonging to the SC/ST residing within the Gram Sabha area, such number of seats shall be reserved by the collector for the Panchas of SC/ST.

**S.14 (1) Qualifications**

Every person whose name is included in the list of voters shall be qualified to vote at the election of a Panch and Sarpanch of a Gram Panchayat.

**S.16 Meeting**

The prescribed authority shall, as soon as may be after every general election call a meeting of the elected Panchas and Sarpanch for the purpose of co-opting Panchas and election of Panchas as required by section 13 if necessary.

**S.17 (1) Election of Sarpanch and up - Sarpanch**

In every Gram Panchayat there shall be a Sarpanch and a Up-Sarpanch.

- (2) Ten percent seats of Sarpanchas of Gram Panchayat within the Japada Panchayat shall be reserved for women.

**JANAPADA PANCHAYAT****S.21 Constitution**

Every Janapada Panchayat shall consist of;

- (1) President of Janapada Panchayat;
- (2) Sarpanchas of Gram Panchayats within the Block
- (3) Co-opted members
- (4) One member representing Municipal Corporation
- (5) Members of the State Legislative Assembly forming whole or part of the block.

**S.22 President and Vice President**

A person who:

- (1) Is qualified to be elected a Panch

- (2) Is not a M.P. or M.L.A or Chairman or Vice-Chairman of Cooperative Society shall be elected as President of Janapada Panchayat.
- (2) Such number of seats shall be reserved for SC/ST in Janapada Panchayats in same proportion to the total population in the district.

#### S.24 No Confidence Motion

- (1) On a motion of no-confidence being passed by Janapada Panchayat by resolution passed by a majority of not less than three-fourths of the members present and voting and such majority is more than two-thirds of the total number of members entitled to Vote the President and Vice-President shall cease to hold office.
- (2) No-confidence motion shall not lie within a period of
  - (1) One-year from the date on which the President or Vice-President enter their respective office.
  - (2) One year from the date on which previous motion of no-confidence was rejected.

### ZILLA PARISHAD

#### S.25 Constitution

Every Zilla Parishad shall consist of;

- (1) Zilla Pradhan of Zilla Parishad.
- (2) Presidents of the Janpad Panchayats
- (3) One representative of the Municipal Corporation etc.
- (4) All M.Ps and M.L.As of the District.
- (5) Chairman of District Cooperative Bank.

## S.26 Election of Zilla Pradhan and Up-Pradhan

A person who :

- (1) Is qualified to be elected as Panch.
- (2) Is not a M.P., M.L.A or Chairman or Vice-Chairman of Co-operative Society shall be elected as Zilla Pradhan of Zilla Parishad.
- (2) Such number of seats of Zilla Pradhan shall be reserved for Scheduled Castes in Zilla Parishads of the State in accordance with their population.
- (3) Ten percent seats of Zilla Pradhan in the State shall be reserved for women.

## S.28 No-Confidence Motion

- (1) A notice of motion of no-confidence against the Zilla Pradhan or Up-Zilla Pradhan moved either jointly or severely by more than half the members of Zilla Parishad and delivered to the Secretary of the Zilla Parishad and the Collector.
- (2) On a motion of no-confidence being passed the Zilla Pradhan and Zilla-Up-Pradhan shall cease to hold office.
- (3) No-confidence motion shall not lie against the Zilla Pradhan or Zilla Up-Pradhan within a period of;
  - (1) One year from the date on which the Zilla Pradhan or Zilla Up-Pradhan enter their respective office.
  - (2) Six months preceding the date on which the term of office of the Zilla Pradhan or Zilla Up-Pradhan, as the case may be, expires.

- (3) One year from the date on which previous motion of no-confidence was rejected.

**S.29 Disqualification**

No person shall be eligible to be an office bearer of Panchayat who -

- (1) Has, either before or after the commencement of this Act been convicted.
- (2) Is of unsound mind
- (3) Undischarged insolvent.
- (4) Holds an office of profit.

**S.31 Resignation by Office Bearer**

- (1) A Panch of a Gram Panchayat or a member of Janapada Panchayat or a member of Zilla Parishad may resign his office by giving notice in writing to that effect to the Sarpanch, or President or Zilla Pradhan as the case may be.
- (2) The Sarpanch or Up-Sarpanch of a Gram Panchayat or the President or Vice-President of a Janapada Panchayat or Zilla Pradhan or Zilla Up-Pradhan of Zilla Parishad may resign his office by giving notice in writing to the prescribed authority.

**S.33 Suspension of Office Bearer**

The prescribed authority has the power to suspend any office-bearer.

- S.34** The State Government or the prescribed authority may after such enquiry as it may deem fit remove an office bearer.

## CHAPTER - IV

## CONDUCT OF ELECTION

## S.36 Allotment of Symbol

The political party registered by the Election Commission of India under the Representation of People Act 1951 No. (43 of 1951) may set up candidates for election under this Act.

## S.37 Power to Make Rules

The State Government may make rules for regulating and conducting the elections.

## CHAPTER - V

CONDUCT OF BUSINESS AND THE PROCEDURE AT  
THE MEETING OF THE PANCHAYATS

## S.38 Meeting

- (1) The quorum for a meeting of Panchayat shall be one half of the members entitled to vote constituting the Panchayat for the time being.
- (2) The Zilla Pradhan, President or Sarpanch, shall call a meeting of the Zilla Parishad, Janpada Panchayat and Gram Panchayat as the case may be at least once every month.
- (3) If more than fifty percent of the members of the Panchayat entitled to vote give requisition in writing for a special meeting of the Panchayat, the Zilla Pradhan, President or Sarpanch as the case may be shall call such a meeting within seven days of receipt of such requisition.

**S.40 Standing Committees**

A Gram Panchayat may for discharging its functions and duties, constitute Standing Committees not exceeding three and such Committees shall exercise such powers as may be assigned to them by the Gram Panchayat.

**S.41 Standing Committees**

Every Janapada Panchayat and every Zilla Parishad shall from amongst its members constitute the following Committees:

- (1) General Administration Committee.
- (2) Agriculture.
- (3) Education
- (4) Communication and works.
- (5) Cooperation and Industries.

**S.42 Powers, Duties, of Sarpanch and Up-Sarpanch**

The Sarpanch and Up-Sarpanch, the President and Vice-President and Zilla Pradhan and Zilla Up-Pradhan shall exercise such powers and perform such functions as may be prescribed.

**CHAPTER - VI****FUNCTIONS OF PANCHAYATS****S.43 Functions of Panchayats**

It shall be the duty of a Gram Panchayat in so far as the Gram Panchayat Fund allows to perform functions related to,

- (1) Sanitation
- (2) Construction and repair of public wells, ponds, tanks etc.
- (3) Construction and maintenance of source of water.
- (4) Construction and maintenance of village roads.
- (5) Lighting of village streets.

**S.44 Functions of Janapada Panchayat**

Subject to the provisions of this Act it shall be the duty of the Janapada Panchayats, so far as the Janapada Panchayat fund allows to make reasonable provision in the block for the following matters.

- (1) Integrated Rural Development, Agriculture, Social Forestry, Animal Husbandry and Fisheries, Health and Sanitation, Adult Education etc.
- (2) Provision of emergency relief etc.
- (3) Arrangements in connection with local pilgrimage etc.
- (4) Management of public markets etc.

**S.46 Functions of Zilla Parishad**

Subject to the provisions of this Act and rules made there under, it shall be the duty of the Zilla Parishad to -

- (1) Control, co-ordinate and guide, the Janapada Panchayat and Gram Panchayat within the district.
- (2) Co-ordinate and consolidate the Janapada Panchayat plans.
- (3) Co-ordinate the demands for grants.

Any other powers assigned by the State Government

**CHAPTER - VII****CONCILIATION BOARDS****S.56 Definition of Disputes**

Under this chapter unless the context otherwise requires dispute means a dispute whether civil or criminal involving a non-cognisable offence.

**S.57 Power of Gram Panchayat**

On the application of either party to a dispute, the Gram Panchayat shall constitute a conciliation Board to facilitate conciliation between the parties to the dispute.

**S.58 A Conciliation Board shall Consist of -**

- (1) Sarpanch or Up-Sarpanch of the Gram Panchayat who shall be the Chairman.
- (2) Two Panchas of the Gram Panchayat one to be nominated by each of the two parties.

**CHAPTER - VIII****FUND AND PROPERTY ON PANCHAYAT****S.62 State Government Powers**

The State Government may by notification and subject to such conditions and restrictions vest in Gram Panchayat, Janapada Panchayat or Zilla Parishad as the case may be any property vested in the State Government.

**S.64 Panchayat Fund**

Every Panchayat shall establish a fund to be called the Panchayat Fund and all sums received by the Panchayat shall form part of the said fund.

**CHAPTER - IX****ESTABLISHMENT BUDGET AND ACCOUNTS OF PANCHAYAT****S.67 (1) Secretary and Chief Executive Officer**

The State Government or the prescribed authority may appoint a Secretary for a Gram Panchayat or group of two or more Gram Panchayats.

(2) Every Janapada shall have a Chief Executive Officer who shall be appointed by the State Government.

(3) Every Zilla Parishad shall have a Secretary who shall be appointed by the State Government.

#### **S.68 Servants of Panchayats**

Subject to the provisions of Section 67 every Panchayat may with previous approval of prescribed authority appoint such other officers and servants as it considers necessary for the efficient discharge of its duties.

#### **S.70 The Functions of Secretary of a Gram Panchayat**

The functions of the Secretary of the Gram Panchayat and Chief Executive Officer of a Janapada Panchayat and Secretary of Zilla Parishad shall be such as may be prescribed.

#### **S.71 Budget**

Every Panchayat shall prepare annually in such form and in such manner and by such date as may be prescribed budget estimates of its receipts and expenditure for the next financial year. The Budget estimates prepared under subsection (1) shall be approved by such authorities in the prescribed manner.

### **CHAPTER - X**

#### **TAXATION AND RECOVERY OF CLAIMS**

**S.72 Levy of Cess on Land.**

**S.73 Duty on Transfer of Property within Block.**

**S.74 Disbursement of Cess and Stamp Duty among Janapada Panchayats and Gram Panchayats.**

**S.75 Other Taxes**

- (1) Subject to the provisions of this Act and to such conditions and exceptions as may be prescribed every Gram Panchayat and Janapada Panchayat shall impose the taxes specified in Schedule I.
- (2) With the previous approval of the Janapada Panchayat a Gram Panchayat and with the previous approval of the Zilla Parishad, a Janapada Panchayat may impose any of the taxes specified in Schedule II.
- (3) A Janapada Panchayat may levy development tax on agriculture land.

**S.76 Power of State Government**

The State Government may make rules to regulate the imposition, assessment, collection and sharing of taxes under Section 75.

**CHAPTER - XI****CONTROL****S.82 Inspection of Works**

- (1) The Officer of the State Government duly authorised by the State Government in this behalf may subject to such terms as may be prescribed, inspect the proceedings of a Panchayat.
- (2) The State Government or the prescribed authority may by an order in writing and for reasons to be stated suspend the execution of any resolution passed or order issued etc.

**S.85 Power to Dissolve Panchayats**

- (1) If at any time it appears to the State Government or the prescribed authority that a Panchayat is persistently making default in the performance of the duties imposed on it by or under the Act or exceeds or abuses its powers, the State Government or the prescribed authority, may, after such enquiry as it may deem fit by an order dissolve such Panchayat and may order a fresh Constitution thereof on the dissolution of the Panchayat.
- (2) A Panchayat dissolved under sub-section (1) shall be reconstituted in accordance with the provisions of this Act within six months of the dissolution. Such reconstituted Panchayat shall function for the remaining term of the Panchayat.

**91. Delegation of Powers**

The State Government may by notification delegate to or confer on any officer subordinate to it or to any Panchayat all or any of the powers conferred upon it by or under this Act, except the powers relating to framing of rules.

**CHAPTER - XII****RULES AND BYE-LAWS****S.93. Power to Make Rules**

The State Government may make rules for carrying out the purposes of this Act.

**S.94 Bye - Laws**

- (1) A Panchayat may make bye-laws consistent with this Act and the rules made there under.

- (2) A by-law shall not come into force until it has been confirmed by the prescribed authority.

#### CHAPTER - XV

##### 126. Audit of Panchayat Accounts

There shall be a separate and independent Audit Organisation under the control of the State Government to perform Audit of accounts of Panchayats.

## THE U.P. PANCHAYAT RAJ ACT. 1947

## CHAPTER - I

## PRELIMINARY

## S.1 Title:

The Act may be called the Uttar Pradesh Panchayat Raj Act 1947.

## CHAPTER - II

## ESTABLISHMENT AND CONSTITUTION OF GAON SABHA

## S.3 Constitution of Gaon Sabha

The State Government shall by notification in the Official Gazette, establish a Gaon Sabha for a village or a group of villages.

## S.5 Membership of Gaon Sabha

Every person whose name is for the time being included in the electoral roll for a Gaon Sabha shall be a member of that Gaon Sabha.

## S.5A Disqualification for Holding Office Under Gaon Sabha or Nyaya Panchayat

A person shall be disqualified for being chosen, nominated or appointed to, and for holding any office in the Gaon Sabha or Gaon Panchayat or the Nyaya Panchayat constituted under Section 42 if he -

- (1) Is for the time being, not a member of the Gaon Sabha Concerned.
- (2) Holds any office of profit under a State Government or the Central Government.
- (3) Is a salaried servant of the Gaon Sabha or a Nyaya Panchayat.

(4) Is in the arrears of any tax payable to the Panchayat.

(5) Is an undischarged solvent.

#### **S.6 Cessation of Membership**

A member of a Gaon Sabha shall cease to be such member if the entry relating to that member is deleted from the electoral roll for the Gaon Sabha.

#### **S.6a Decision on Question as to Disqualification**

If any question arises as to whether a person has become subject to any disqualification mentioned in section 5-A or in sub-section (1) of section 6, the question shall be referred to the prescribed authority for his decision.

#### **S.9 Electoral Roll for Gaon Sabha**

There shall be an electoral roll for every Gaon Sabha which shall be prepared in accordance with the provisions of this Act, under the Supervision of the Nirvachan Nideshak (Panchayat) by an Electoral Registration Officer.

### **CHAPTER - III**

#### **THE GAON SABHA: MEETING AND FUNCTIONS**

#### **S.11 Meeting and Functions**

(1) Every Gaon Sabha shall hold two general meetings in each year, one soon after harvesting of the kharif crop and the other soon after harvesting of the rabi crop.

(2) For any meeting of the Gaon Sabha one-fifth of the number of members shall form the quorum, provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

**S.11a Pradhan and Up-Pradhan**

There shall be a Pradhan and a Up-Pradhan of the Goan Sabha.

**S.11b Election and Term of Office**

- (1) The Pradhan shall be elected by the members of the Goan Sabha from among themselves in such manner as may be prescribed.
- (2) The term of the Pradhan shall commence from the date of the constitution of the Goan Panchayat or his being elected or nominated, which ever is later, and unless other wise determined under the provisions of this Act shall expire with the term of the Goan Panchayat.

**S.11c Election of Up-Pradhan and His Term**

- (1) The Up-Pradhan shall be elected by the members of the Goan Panchayat from amongst themselves in such manner as may be prescribed.
- (2) The term of office of the Up-Pradhan shall commence from the date of his election or nomination, as the case may be and other wise determined under the provisions of this Act, shall expire with the term of the Goan Panchayat.

**S.12 Constitution of Gaon Panchayat**

- (1) As soon as may be after the establishment of the Goan Sabha, there shall be constituted an executive committee thereof called the Goan Panchayat.
- (2) Subject to provisions of section 12-G, the term of every Goan Panchayat shall be for five years.
- (3) There shall be a general election in the manner prescribed to constitute or reconstitute Gaon Panchayat.

- (4) The members of a Gaon Panchayat shall be elected by the members of the Gaon Sabha from amongst themselves. Their number shall be such as may be specified.
- (5) The term of a member of a Gaon Panchayat shall unless otherwise determined under the provisions of this Act, expire with the term of the Gaon Panchayat.
- (6) Seats shall be reserved for the scheduled castes in the Gaon Panchayat and the number of seats so reserved shall bear as nearly as may be the same proportion to the total number of seats in the Gaon Panchayat as the population of the scheduled castes in the area of the Gaon Sabha bears to the total population of such area.
- (7) The Pradhan and Up-Pradhan of the Gaon Sabha shall respectively be ex-officio.

#### **S.12a Manner of Election**

The election to the office of a Pradhan or Up-Pradhan of a Gaon Sabha or a member of a Gaon Panchayat shall be held by secret ballot in the prescribed manner.

#### **S.12k Tenure of Office of Pradhan and Up-Pradhan**

Notwithstanding any thing contained in sub-section (2) of section 11-B or 11-C the Pradhan and Up-Pradhan shall continue in office until their respective successors are elected.

#### **S.14 Removal of Pradhan and Up-Pradhan**

- (1) The Gaon Sabha may, at a meeting specially convened for the purpose and of which at least 15 days previous notice shall be given remove the pradhan by a majority of two thirds of the members present and voting.

- (2) A meeting for the removal of a Pradhan shall not be convened within one year of his election.

#### CHAPTER - IV

#### POWERS, DUTIES, FUNCTIONS AND ADMINISTRATION OF GAON PANCHAYAT

##### S.15 Duties and Functions

It shall be the duty of every Gaon Panchayat so far as its funds may allow to make reasonable provisions within its jurisdiction to;

- (1) Construction, repair maintenance of public streets.
- (2) Medical relief.
- (3) Sanitation.
- (4) Protection of Gaon Sabha property.
- (5) Registering of births and deaths.
- (6) Regulation of Melas, markets and hats.
- (7) Establishment and maintaining village primary schools.
- (8) Maintenance of public wells, tanks, ponds etc.
- (9) Promotion of family planning.

##### S.16 Discretionary Functions

Gaon Panchayat may also make provision within its jurisdiction for;

- (1) Planting and maintaining trees.
- (2) Breeding and treatment of Animals.
- (3) Organising village volunteer force.
- (4) Relief against famine.
- (5) Extension of the abadi.

**S.25 Staff**

A Gaon Panchayat may appoint such staff other than the secretary as may from time to time be necessary. Provided that it shall not create any post not already provided for in the budget except with the previous approval of the prescribed authority.

**S.28a Bhumi Prabandhak Samiti**

The Gaon Panchayat of every Gaon Sabha shall also be the Bhumi Prabandhak Samiti and as such discharge the duties of up-keep, protection and supervision of all property belonging to and vested or to be held by the Gaon Sabha.

**S.28b Functions of Bhumi Prabandhak Samiti**

The Bhumi Prabandhak Samiti shall for and on behalf of the Gaon Sabha, be charged with the general management, preservation and control of all property referred to in section 28-A.

**S.29 Committee**

Subject to the prescribed condition a Gaon Panchayat may establish a committee to assist it in the discharge of any other specified duty or class of duties and may delegate to such committee such of its powers as may be necessary for the purpose of rendering such assistance.

**CHAPTER - V****ACQUISITION OF LAND, GAON FUND AND PROPERTY****S.32 Gaon Fund**

(1) There shall be a Gaon Fund for each Gaon Sabha and the same shall, subject to the provisions of the annual

estimate of income and expenditure passed under section 41 be utilised for carrying out the duties of the Gram Panchayat.

(2) The following shall be credited to the Gaon Fund.

(1) Proceeds of any tax.

(2) Sums handed by State Govt.

(3) Sums ordered by a court.

(4) Sums received under section 104

(5) Sums Contributed to the Gaon Fund by any Zilla Parishad.

#### **S.34 Property Vested in the Gaon Sabha**

Subject to any special reservations made by the State Government, all public property situated within the jurisdiction of a Gaon Sabha shall vest in and belong to the Gaon Sabha.

#### **S.37 Imposition of Taxes**

A Gaon Sabha shall levy the taxes described in clauses (a) and (b) and may levy all or any of the taxes, fees and rates described in clauses C,D,E,F,G,H,L,J, and K.

#### **S.40 Audit of Funds**

The procedure of audit of Panchayat funds is prescribed.

#### **S.41 Budget**

Every Gaon Panchayat shall prepare and lay before the kharif meeting of the Gaon Sabha an estimate of its income and expenditure for the year commencing on the 1st day of April next.

**CHAPTER - VI****NYAYA PANCHAYATS****S.42 Establishment of Nyaya Panchayat**

- (1) The State Government shall divide a district into circles comprising as many areas subject to the jurisdiction of the Gaon Sabha as may be expedient.
- (2) Subject to a minimum of ten and a maximum of twenty five, every Nyaya Panchayat shall have such number of members, as may be prescribed.

**S.43 Appointment of Panches and Their Term**

- (1) There shall be appointed by the prescribed authority out of the members of a Gaon Panchayat such no of persons, as may be prescribed to be Panches of the Nyaya Panchayats.
- (2) No person may be appointed as a panch of the Nyaya Panchayat unless he has the qualification that may be prescribed.

**S.44 Election of Sarpanch or Sahayak Sarpanch**

The Panches appointed under section 43 shall in the manner and within the period to be prescribed, elect from amongst themselves two persons who are able to record proceedings, one as the Sarpanch and the other as the Sahayak Sarpanch.

**S.45 Term of a Panch**

The term of every Panch of a Nyaya Panchayat shall commence on the date of his appointment and shall expire with the Gaon Panchayat from which he was appointed.

**S.49 Bench of Nyaya Panchayat**

The Sarpanch shall form bench consisting of five Panches for the disposal of cases.

## CHAPTER - VII

## EXTERNAL CONTROL

## S.95 Inspection

The State Government may -

- (1) Cause to be inspected any immovable property owned by a Gaon Sabha.
- (2) Institute any enquiry in respect of any matter relating to a Gaon Sabha, Gaon Panchayat or Nyaya Panchayat.
- (3) Suspend or supersede or dissolve any Gaon Sabha, Gaon Panchayat.
- (4) Suspend a Pradhan or Up-Pradhan or a member of a Gaon Panchayat.
- (5) Remove a person, if having been elected as a Pradhan he does not possess the required qualifications.

## CHAPTER - IX

## RULES, BYE-LAWS AND REPEALS

## S.110 Power of State Government to Make Rules

The State Government may by notification in the Gazette make rules for carrying out the purposes of this Act.

## S.111 Power of Zilla Parishad to Frame Bye-laws

The prescribed authority may and when required by the state Government shall make bye-laws for a Gaon Panchayat within its jurisdiction consistent with the Act.

## S.112 Powers of Gaon Panchayat to Frame Bye-laws

Subject to the provisions of this Act and the rules made there under and the bye-laws if any, made by the prescribed authority a Gaon Panchayat may frame bye-laws.

## U.P. KSHETTRA SAMITIS AND ZILLA PARISHADS

ADHINIYAM 1961

## CHAPTER - I

## PRELIMINARY

## S.1 Title

This Act may be called the Uttar Pradesh Kshettra Samitis and Zilla Parishad Act 1961

## CHAPTER - II

## KSHETTRA SAMITIS

## S.3 Division of Rural Areas into Khands

The State Government shall by notification in the Gazettee divide the rural area of each district into khands specifying each khand by a name and the limits or constituents of its area.

## S.5 Establishment of Kshettra Samitis

- (1) The State Government shall notify in the Gazettee, the Constitution or re-constitution of the Kshettra Samiti for each Khand.
- (2) The Kshettra Samiti shall have its Office at such place as may be in the prescribed manner.

## S.6 Composition of Kshettra Samiti

A Kshettra Samiti shall have as its members;

- (1) All Pradhan of constituent Gaon Sabha
- (2) Chairman of the committee for a Town Area and President of the committee for a Notified Area.
- (3) Between 2-5 members from Co-operative Societies.
- (4) All M.Ps and MLAs whose constituencies include any part of the Khand.

- (5) All MPs (Rajya Sabha) and MLAs who have their residence in any of the Khands.

**S.7 Pramukh and Up-Pramukh of Kshettra Samitis and their Election**

Every Kshettra Samiti shall have-

- (1) a Pramukh who shall be elected by the members mentioned in sub-section 1 and 2 of section 6 out of persons whose names are registered as electors in the Assembly rolls.
- (2) one senior Up-Pramukh and the junior Up-Pramukh to be elected by members mentioned in sub-section (1) and (2) of section 6 out of themselves.

The aforesaid election shall be held by secret ballot and in the manner prescribed by rules.

**S.8 Term of Kshettra Samitis and its Members**

Subject to the other provisions of this Act the term of office of the first and every subsequent Kshettra Samiti for a Khand shall be of five years.

**S.9 Term of Pramukh and Up-Pramukh**

The term of office of a Pramukh or Up-Pramukh of a Kshettra Samiti shall commence upon his election and shall extend up to the term of the Kshettra Samiti.

**S.11 Resignation of Pramukh, Up-Pramukh & Member**

A Pramukh, Up-Pramukh or any member mentioned in clause(iii) of sub-section (1) of section 6 may resign his Office by giving notice in writing to the Kshettra Samiti.

**S.15 Motion of No-Confidence in Pramukh or Up-Pramukh**

- (1) A motion expressing want of confidence in the Pramukh or any Up-Pramukh of a Kshettra Samiti may be made within the procedure laid down.

- (2) A written notice of intention to make the motion in such form as may be prescribed, signed by at least half of the total number of members of the Kshettra Samiti together with a copy of the proposed motion, shall be delivered in person by any one of the persons signing the motion to the collector concerned.

#### **S.16 Removal of Pramukh or Up-Pramukh**

If in the opinion of the Commissioner of the division, the Pramukh or any Up-Pramukh of a Kshettra Samiti wilfully omits or refuses to perform his duties and functions under the Act or abuses the powers vested in him after giving the Pramukh or such Up-Pramukh as the case may be a reasonable opportunity for explanation and after consulting the Adhyaksh may order the removal.

### **ZILLA PARISHAD**

#### **S.17 Establishment of Zilla Parishad**

The State Government shall notify in the gazette the constitution or the reconstitution of the Zilla Parishad.

#### **S.18 Composition**

The following shall be the members of the Zilla Parishad.

- (1) Pramukh of all Kshettra Samitis established in the district.
- (2) So many persons, as may be specified to be chosen by each Kshettra Samiti out of its members in the manner prescribed.
- (4) The Chairman of the District Co-operative Federation.
- (5) All MPs (Lok) and MLAs from the district or part.
- (6) All MPS (Rajya) and MLAs residing in the district.

**Co-Opted Members**

- (1) Women numbering one to three in districts having less than seven Khands.
- (2) SC between three to ten in districts having up to seven Khands.

**S.19 Adhyaksh and Up-Adhyaksha**

- (1) Every Zilla Parishad shall have a Adhyaksha who shall be elected by secret ballot by the members of the Zilla Parishad.
- (2) An Adhyaksha who is not otherwise a member of a Parishad shall be an ex-officio member.
- (3) The Up-Adhyaksha shall be elected out of the members of the Parishad.

**S.20 Term of Zilla Parishad and its Members**

- (1) Subject to the other provisions of this Act the term of office of the first and every subsequent Zilla Parishad shall be of five years.
- (2) The term of office of each member of the Zilla Parishad shall commence on the date of its constitution extend up to the term of the Zilla Parishad.

**S.21 Terms of Adhyaksha and Up-Adhyaksha**

- (1) The term of office of an Adhyaksha and Up-Adhyaksha of a Zilla Parishad shall commence upon his election and shall to end with the term of the Zilla Parishad.
- (2) The term of an Up-Adhyaksha shall be of one year from the date of election but shall not extend beyond the term of the Zilla Parishad.

**Co-Opted Members**

- (1) Women numbering one to three in districts having less than seven Khands.
- (2) SC between three to ten in districts having up to seven Khands.

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- (1) Every Zilla Parishad shall have a Adhyaksha who shall be elected by secret ballot by the members of the Zilla Parishad.
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- (1) Subject to the other provisions of this Act the term of office of the first and every subsequent Zilla Parishad shall be of five years.
- (2) The term of office of each member of the Zilla Parishad shall commence on the date of its constitution extend up to the term of the Zilla Parishad.

**S.21 Terms of Adhyaksha and Up-Adhyaksha**

- (1) The term of office of an Adhyaksha and Up-Adhyaksha of a Zilla Parishad shall commence upon his election and shall to end with the term of the Zilla Parishad.
- (2) The term of an Up-Adhyaksha shall be of one year from the date of election but shall not extend beyond the term of the Zilla Parishad.

**S.24 Resignation of Adhyaksha, Up-Adhyaksha or Member**

An Adhyaksha, Up-Adhyaksha or any member under clause (1), (IV) of sub section (1) may resign his office in writing to the State government in the case of Adhyaksha and to Mukhiya Adhikari of the Zilla Parishad in case of others.

**S.28 Motion of No-Confidence in Adhyaksha**

A motion expressing want of confidence may be made by a motion signed by not less than one half of the total number of members of the Zilla Parishad and handed over to the collector concerned.

**S.29 Removal of Adhyaksha or Up-Adhyaksha**

If in the opinion of the State Government the Adhyaksha or Up-Adhyaksha acting in wilfully omits or refuses to perform his duties and is found guilty of misconduct etc, after being given a reasonable opportunity for explanation the state government may remove him from office.

**CHAPTER - III****S.32 General Powers and Functions of Kshettra Samitis**

Every Kshettra Samiti shall within the Khand exercise powers and perform the functions specified in schedule 1.

**S.33 General Powers and Functions of Zilla Parishad**

Every Zilla Parishad shall exercise and perform the following functions:-

- (1) To classify fairs and festivals.
- (2) To classify roads as village roads, district roads etc. for maintenance.

- (3) To supervise the activities of Gaon Panchayat and Kshettra Samitis.
- (4) Any other function as may be prescribed.

#### CHAPTER - IV

##### **S.39 Officers and Servants of Zilla Parishad and Kshettra Samitis**

Subject to any special directions issued by the State Government from time to time the Zilla Parishad shall have the following officers:-

- (1) Mukhiya Adhikari
- (2) Vitta Adhikari
- (3) Swasthya Adhikari
- (4) Karya Adhikari
- (5) Abhiyanta
- (6) Kar Adhikari
- (7) Siksha Adhikari
- (8) Panchayat Raj Adhikari
- (9) Sinchai Adhikari
- (10) Pashudhan Adhikari
- (11) Krishi Adhikari

##### **S.48 Officers and Servants of Kshettra Samiti**

The Services of Officers and staff employed for the time being at development blocks in each district of Uttar Pradesh shall be placed at the disposal of Kshettra Samitis on such terms and conditions as the State Government may specify.

**S.49 Khand Vikas Adhikari**

- (1) Each Kshettra Samiti shall have a Khand Vikas Adhikari.
- (2) The B.D.O., shall be the Khand Vikas Adhikari of the Kshettra Samiti.

**CHAPTER - V****CONDUCT OF BUSINESS****S.56 Exercise of Power of Zilla Parishad**

The following powers, duties and functions of a Zilla Parishad, shall be exercised by the Adhyaksha.

- (1) Submission to the prescribed authority the statements, accounts, reports etc.
- (2) Such of the powers, duties referred in the Act.
- (3) Control & Supervision of the staff.

**S.58 Duties of Adhyaksha**

- (1) To convene and preside at all meetings of the Zilla Parishad and of such of its committees as prescribed.
- (2) To control in accordance with any regulation made in this behalf the transaction of business at all meetings of the Zilla Parishad.
- (3) To watch over the financial position and to supervise the executive administration of the Parishad.

**S.60 Duties of Up-Adhyaksha**

An Up-Adhyaksha Shall:

- (1) In the absence of the Adhyaksha preside at the meeting of the Zilla Parishad.
- (2) Perform any duties delegated to him by the Adhyaksha.

**S.61 Meetings of Zilla Parishad**

A Zilla Parishad shall meet for the transaction of business at least once in every two months.

**S.81 Duties of the Pramukh**

- (1) To convene and preside at all meetings of the Kshettra Samiti.
- (2) To control and regulate the business of all meetings of the Kshettra Samiti.
- (3) Financial regulation & administration of Kshettra Samitis.

**S.83 Duties of Up-Pramukh**

- (1) In the absence of the Pramukh he shall preside over the meetings.
- (2) Such other function as delegated by the Pramukh.

**S.84 Meeting of Kshettra Samiti**

A Kshettra Samiti shall meet for the transaction of business at least once in every two months.

**S.92 Powers and Functions of the Khand Vikas Adhikari**

The Khand Vikas Adhikari shall be the chief executive officer of the Kshettra Samiti and shall be responsible for implementing the resolutions of the Samiti and shall perform the following duties.

- (1) Power to receive, recover and credit any sum due.
- (2) Drawing from and disbursing the funds.
- (3) Submission of statements accounts etc. to the prescribed authority.
- (4) Assisting the Gaon Panchayat in development works.

## CHAPTER - VI

## FUND AND CONTRACTS

## S.99 Zilla Nidhi and Kshettra Nidhi

There shall be established for each Zilla Parishad a fund called Zilla Nidhi and for each Kshettra Samiti a fund called Kshettra Nidhi to the credit where of shall be placed all sums received and all loans raised by or on behalf of the Zilla Parishad or the Kshettra Samiti as the case may be.

## S.117 Contracts by Zilla Parishad and Kshettra Samitis

Subject to the provisions of this Act a Zilla Parishad or a Kshettra Samiti shall have power to enter into contracts which may be necessary or expedient for any purpose of this Act.

## CHAPTER - VII

## TAXATION AND LEVY OF FEES AND TOLLS

## S.119 Taxes which may be Imposed by the Zilla Parishad

- (1) Tax on circumstances and property.
- (2) Any other tax which the State Legislature has the power under the Constitution of India including Article 277.
- (3) A Zilla Parishad or a Kshettra Samiti may charge fees to be fixed by bye-laws or by public auction or agreement for the use of or occupation of any immovable property vested to the Zilla Parishad or Kshettra Samiti.
- (4) A Zilla Parishad or a Kshettra Samiti may charge a fee to be fixed by bye-laws for any licence, sanction or permission to which it is entitled or required to grant by or under this Act.

## CHAPTER - X

## S.225 External Control

The prescribed authority or the District Magistrate may within his jurisdiction.

- (1) Call for and inspect books or documents.
- (2) Call for monthly reports.

## S.231 Removal of Members

The State Government may remove a member of the Zilla Parishad on any of the following grounds.

- (1) That he has acted as a member of the Zilla Parishad or member of any committee by voting in any matter in which he has directly or indirectly personal interest.
- (2) Guilty of misconduct.
- (3) Has become physically or mentally unsound.

## S.232 Power of State Government to Dissolve or Supersedes the Parishad

If at any time it appears to the State Government that a Parishad makes default in the performance of its duties the Government may after calling explanation may either dissolve or supersede the Parishad.

## S.235 Power of Inspection

The prescribed authority or the District Magistrate may within the limits of its or his jurisdiction inspect, any property call for records, books etc. in writing.

## CHAPTER - XI

## RULES, REGULATIONS AND BYE-LAWS

## S.237 Power of state government to make rules

The State Government may make rules in consistent with this Act for carrying out the purposes of this Act.

## WEST BENGAL PANCHAYAT ACT 1973

## CHAPTER - I

## PRELIMINARY

## S.1 Title

This Act may be called the West Bengal Panchayat Act 1973.

## CHAPTER - II

## GRAM PANCHAYAT

## Constitution of Gram Panchayat

## S.3 Gram:-

The State Government may by notification declare for the purpose of this Act any mauza or part of a mauza to be a Gram.

## S.4 Constitution

- (1) For every Gram the State Government shall constitute a Gram Panchayat bearing the name of the Gram.
- (2) Persons whose names are included in the electoral rolls of the West Bengal Legislative Assembly for the time being in force pertaining to the area comprised in the gram shall elect by secret ballot from among themselves such number of members not being less than seven or more than twenty five as may be determined by the prescribed authority.

## S.7 Term of Office of Members of Gram Panchayat

- (1) The members of a Gram Panchayat shall, subject to the provisions of section hold office for a period of four years beginning from the date of its first meeting at which a quorum is present.

**S.8 Disqualification of Members of Gram Panchayat**

Subject to the provisions contained in sections 94 and 97, a person shall not be qualified to be a member of the Gram Panchayat if-

- (1) He is a member of a Nayaya Panchayat, or a Panchayat Samiti or a Zilla Parishad.
- (2) In the service of, or receives remuneration from the Central or the State Government or a Gram Panchayat or a Panchayat Samiti or Zilla Parishad.
- (3) He has been adjudged by a competent court to be of unsound mind.
- (4) He is an undischarged insolvent.
- (5) He has been dismissed from Government service for his conduct involving moral turpitudes.

**S.9 Pradhan and Up-Pradhan**

- (1) Every Gram Panchayat shall at its first meeting at which a quorum is present elect in the prescribed manner, one of its member to be the Pradhan and another member to be the Upa-Pradhan of the Gram Panchayat.
- (2) The Pradhan and the Up-Pradhan shall subject to the provisions of section 12 and to their continuing as members, hold office for a period of four years.

**S.10 Resignation of Pradhan and Upa-Pradhan**

A Pradhan or an Upa-Pradhan or a member of a Gram Panchayat may resign his office by notifying in writing his intention to do so to the prescribed authority.

**S.11 Removal of Member of Gram Panchayat**

The prescribed authority may, after giving an opportunity to a member of a Gram Panchayat to show cause against the action proposed to be taken against him by order remove him from office-

- (1) If, after his election he is convicted by a criminal court of an offense involving moral turpitude and punishable with imprisonment for a period of six months.
- (2) If he was disqualified to be a member of the Gram Panchayat at the time of his election.
- (3) If he is absent from three consecutive meeting of the Gram Panchayat without the leave of the Gram Panchayat,

**S.12 Removal of Pradhan and Upa-Pradhan**

A Pradhan or an Upa-Pradhan of a Gram Panchayat may at any time, be removed from office by a resolution of the Gram Panchayat carried by the majority of the existing members of the Gram Panchayat.

**S.16 Meetings of the Gram Panchayat**

- (1) Every Gram Panchayat shall hold a meeting at least once in a month at such time and at such place within the local limits of the Gram concerned.
- (2) The Pradhan or in his absence the Upa-Pradhan shall preside at the meetings of the Gram Panchayat.
- (3) One-fourth of the total number of members subject to a minimum of four members shall form a quorum for a meeting of the Gram Panchayat.

**S.18 Report of the Work of Gram Panchayat**

The Gram Panchayat shall prepare in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year and submit it to the prescribed authority and to the Panchayat Samiti.

**CHAPTER - III****POWERS AND DUTIES OF GRAM PANCHAYAT****S.19 Obligatory Duties**

Subject to such conditions as may be prescribed, the duties of a Gram Panchayat shall be to provide within the area under its jurisdiction for;

- (1) Sanitation, drainage etc.
- (2) Preventive measures for diseases.
- (3) Supply of drinking water etc.
- (4) Maintenance of public roads etc.
- (5) Removal of encroachments.
- (6) Control and administration of Panchayat Fund.

**S.20 Other Duties of the Panchayat**

A Gram Panchayat shall also perform such other functions as the State Government may assign to it in respect of,

- (1) Primary, social and technical education.
- (2) Rural dispensaries etc.
- (3) Irrigation
- (4) Grow-more food campaign.
- (5) Rehabilitation of displaced persons.
- (6) Bringing waste land under cultivation.
- (7) Promotion of village plantations.

**S.21 Discretionary Duties of Gram Panchayat**

Subject to such conditions as may be prescribed, a Gram Panchayat may and shall if the State Government so directs make provisions for:

- (1) Maintenance and lighting of public streets.
- (2) Planting and maintaining trees.
- (3) Sinking of wells.
- (4) Construction and regulation of markets.
- (5) Filling up of unsanitary depression.
- (6) Promotion of cottage industries etc.

**S.31 Delegation of Functions By Zilla Parishad**

- (1) A Zilla Parishad may with the concurrence of a Gram Panchayat and subject to such restrictions and conditions as may be mutually agreed upon, delegate to Gram Panchayat any of its functions in the manner prescribed.
- (2) Where functions are delegated to a Gram Panchayat under this section, the Gram Panchayat, in the discharge of such function shall act as the agent of the Zilla Parishad.

**S.34 Powers, Functions and duties of Pradhan and Upa-Pradhan**

The Pradhan shall:

- (1) Be responsible for the maintenance of records of the Gram Panchayat.
- (2) Have general responsibility for the financial and executive administration of the Gram Panchayat.
- (3) Exercise control and supervision of the work of the staff of the Gram Panchayat.
- (4) For the transaction of business connected with this Act.

**The Upa-Pradhan shall:-**

- (1) Exercise such of the powers, perform such of the functions and discharge such of the duties of the Pradhan as the Pradhan may from time to time delegate to him by order in writing.
- (2) During the absence of the Pradhan exercise all the powers, perform all the functions and discharge all the duties of the Pradhan.

**CHAPTER - IV****ESTABLISHMENT OF GRAM PANCHAYAT****S.35 Secretary of the Gram Panchayat**

- (1) There shall be a secretary for every Gram Panchayat appointed by the State Government.
- (2) The secretary shall be in charge of the office of the Gram Panchayat and shall discharge all duties.

**S.36 Staff of the Gram Panchayat**

Subject to such rules as may be made by the State Government in this behalf, a Gram Panchayat may appoint such officers and employees as may be required by it and may fix the salaries and allowances to be paid to the person so appointed.

**CHAPTER - V****S.37 Dafadars and Chowkidars**

For general watch and ward, prevention of crime, protection of life and property and discharging all functions relevant there to, as hereinafter provided within the local limits of the jurisdiction of a Gram Panchayat, every Gram Panchayat maintains under its control such number of Dafadars and Chowkidars as the state government may by general or special order determine.

## CHAPTER - VI

## PROPERTY AND FUND

## S.41 Power to Acquire, Hold and Dispose of Property

- (1) A Gram Panchayat shall have power to acquire, hold and dispose of property and to enter into contract.
- (2) All property within the local limits of the jurisdiction of a Gram Panchayat of the nature shall vest in and belong to the Gram Panchayat except the property maintained or control by State Government.

## S.45 Gram Panchayat Fund

For every Gram Panchayat there shall be constituted a Gram Panchayat fund and there shall be placed to the credit.

- (1) Contributions and grants if any of the Central Government.
- (2) Contributions and grants if any of the State Government.
- (3) Contributions made by Zilla Parishad.
- (4) All receipts on account of taxes etc.
- (5) All contributions and incomes from any trust or endowment made in favour of the Gram Panchayat.

## S.47 Levy of Rates and Fees

Subject to such rates as the State Government may prescribe a Gram Panchayat may levy the following fees & rates.

- (1) Fees on registration of vehicles.
- (2) Fees on providing sanitation etc.
- (3) Water rate.
- (4) Lighting rate.

**S.48 Budget of the Gram Panchayat**

Every Gram Panchayat shall at such time prepare in each year a budget of its estimated receipts and expenditures for the following year and submit it to the Panchayat Samiti.

**CHAPTER - VII****S.51 Nayaya Panchayats**

- (1) Every Gram Panchayat shall if authorised by the State Government constitute a Nayaya Panchayat consisting of five members, to be called vicharaks elected by it at such time and member as prescribed from amongst persons whose names are included in the electoral list of the West Bengal Legislative Assembly.
- (2) Every Nayaya Panchayat shall elect at such time and in manner prescribed one of its members to be called Pradhan Vicharaks to preside over its sittings.
- (3) The term of office of a member of a Nyaya Panchayat shall be of four years.
- (4) The Secretary of the Gram Panchayat shall act as the secretary of the Nyaya Panchayat.

**PANCHAYAT SAMITI****CHAPTER - VIII****S.94 Constitution**

For every block the State Government shall constitute a Panchayat Samiti bearing the name of the block. The Panchayat Samiti shall consist of the following members:-

- (1) Pradhan of the Gram Panchayat within the block.

- (2) Such number of persons not exceeding three as may be prescribed to be elected from each Gram within the block.
- (3) Members of the house of people and the Legislative Assembly of the state elected there to from a constituency comprising the block or any part.

#### **S.96 Term of Office of Members of Panchayat Samiti**

The members of a Panchayat Samiti other than ex-officio members shall hold office for a period of four years from the date of its first meeting at which a quorum is present.

#### **S.98 Sabhapati and Sahakari Sabhapati**

- (1) Every Panchayat Samiti shall at its first meeting at which a quorum is present elect in the prescribed manner one of its members to be the Sabhapati and another to be Sahakari Sabhapati of the Panchayat Samiti.
- (2) The Sabhapati and Sahakari Sabhapati shall subject to the provisions of section 101 and to their continuing as members hold office for a period of four years.

#### **S.99 Resignation**

A Sabhapati, or a Sahakari Sabhapati or a member of a Panchayat Samiti may resign his office by notification in writing his intention to do so to the prescribed authority.

#### **S.100 Removal of a Member**

The prescribed authority may after giving opportunity to a member of a Panchayat Samiti to show cause against the action proposed to be taken against him, remove him from office.

**S.101 Removal of Sabhapati or Sahakari Sabhapati**

A Sabhapati or Sahakari Sabhapati of a Panchayat Samiti be removed from office by a resolution of the Panchayati Samiti carried by the majority of the existing members of the Panchayat Samiti at a meeting specially convened for it.

**S.105 Meetings of Panchayat Samiti**

Every Panchayat Samiti shall hold a meeting at least once in every three months.

**S.107 Report on the Work of Panchayat Samiti**

The Panchayat Samiti shall prepare in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year and submit it to the prescribed authority.

**S.108 B.D.O. to Attend Meetings**

The Block Development Officer shall attend meetings of the Panchayat Samiti and shall participate in the deliberations there of.

**CHAPTER - IX****S.109 Powers and duties of Panchayat Samitis**

A Panchayat Samiti shall have Power to prepare:

- (1) Scheme for the development of agriculture, live stock, cottage industries, rural credit, water supply, irrigation, hospitals, communication, primary and adult education, and other public utility services.
- (2) Undertake any scheme entrusted to it by the State Government.

- (3) Manage or maintain any work of public utility or any institution vested under its control and management.

#### S.115 Power of Supervision Over Gram Panchayat

A Panchayat Samiti shall exercise general powers of supervision over Gram Panchayats in the block and it shall be the duty of these authorities to give effect to the directions of the Panchayat Samiti on matters of policy or planning for development.

#### S.118 Powers and Functions of sabhapati and Sahakari Sabhapati

The Sabhapati Shall:-

- (1) Be responsible for maintenance of the records of the Panchayat Samiti.
- (2) Have general responsibility for the financial and executive administration.
- (3) Exercise supervision and control over the work of the staff of the Panchayat Samiti.

The Sahakari Sabhapati shall:

Exercise such of the powers and discharge such duties as the Sabhapati may delegate to him by order in writing.

### CHAPTER - X

#### S.119 Staff of the Panchayat Samiti

There shall be an Executive Officer for every Panchayat Samiti and the B.D.O. shall be the ex-officio Executive Officer.

### CHAPTER - XII

#### S.132 Panchayat Samiti Fund:

For every Panchayat Samiti there shall be constituted a Panchayat Samiti fund bearing the name of the Panchayat Samiti and there shall be placed to the credit thereof:

- (1) Contributions and grants from Central and State Governments.
- (2) Contributions and grants from Zilla Parishad.
- (3) Loans granted by the State and Central Governments.
- (4) All receipts on account of tolls, fees etc.

#### S.133 Levy of Tolls, Rates, Fares etc.

Subject to such maximum rates as the State Government may prescribe a Panchayat Samiti may:

- (1) Levy tolls on persons, vehicles, animals.
- (2) Tolls in respect of ferry.
- (3) Fees for registration of vehicles.
- (4) Fairs, markets etc.

#### S.136 Budget

Every Panchayat Samiti shall prepare a annual estimate of its receipts and expenditure for the following year and submit it to the Zilla Parishad. No expenditure shall be incurred unless the budget is approved by the Zilla Parishad.

### CHAPTER - XIII

#### ZILLA PARISHAD

#### S.140 Constitution

For every district the State Government shall constitute a Zilla Parishad.

##### Members

- (1) Sabhapati of the Panchayat Samitis within the district:  
ex-officio member.

- (2) Two persons within the district elected by secret ballot from among themselves.
- (3) Members of the house of the people or the MLA from the district or part of it.
- (4) Members of the council of states not being ministers having a place of residence in the district.

#### **S.141 Term of Office of Members of Zilla Parishad**

A person may be disqualified if he is-

- (1) A member of Gram Panchayat or a Nyaya Panchayat or a Panchayat Samiti other than the Sabhapati or of any municipal authority constituted under any of the Acts referred to in the sub-section 2 of section 1.
- (2) He is in the service of the Government.
- (3) He is an undischarged solvent.
- (4) Of unsound mind.

#### **S.143 Sabhadipati and Sahakari Sabhadipati**

- (1) Every Zilla Parishad shall at its first meeting at which a quorum is present elect in the prescribed manner one of its members to be the Sabhadipati and another member to be the Sahakari Sabhadipati of the Zilla Parishad.
- (2) They shall hold office for a period of four years.

#### **S.144 Resignation of Sabhadipati and Sahakari Sabhadipati**

A Sabhadipati or a Sahakari Sabhadipati or a member of the Zilla Parishad may resign his office by notifying in writing his intentions to do so in the prescribed authority.

**S.145 Removal of the Member of Zilla Parishad**

The prescribed authority may after giving an opportunity to a member of the Zilla parishad other than an ex-officio member to show cause against the action proposed to be taken against him by order remove him from office.

**S.146 Removal of Sabhadipati and Sahakari Sabhadipati**

They may be removed from office by a resolution of Zilla Parishad carried by the majority of the existing members of the Zilla Parishad at a meeting specially convened for the purpose.

**S.152 Report on the work of Zilla Parishad**

The Zilla Parishad shall prepare and submit annually in the prescribed manner a report on the work done during the previous year and the work to be done the following year to the prescribed authority.

**CHAPTER - XIV****S.153 Powers, Functions and Duties of Zilla Parishad**

- (1) Undertake schemes relating to the development of Agriculture live stock, industries, rural credit, water supply, irrigation public health, sanitation, primary and secondary education etc.
- (2) Make grants to Gram Panchayats and Panchayat Samitis.
- (3) General Administration of the district.

**S.165 Powers and Functions of Sabhadipati and Sahakari Sabhadipati**

The Sabhadipati shall:

- (1) Be responsible for record maintenance.
- (2) Financial responsibilities of the Zilla Parishad.

- (3) Control and supervision over the staff of the Zilla Parishad.

**The Sahakari Sabhadipati**

Exercise such of the powers and duties as delegated by the Sabhadipati under the Act.

**CHAPTER - XV**

**S.166 Staff of the Zilla Parishad**

- (1) There shall be an Executive Officer for a Zilla Parishad appointed by the State Government on such terms and conditions as may be prescribed.
- (2) There shall be a secretary of the Zilla Parishad to be appointed by the Zilla Parishad.

**CHAPTER - XVII**

**S.179 Zilla Parishad Funds**

For every Zilla Parishad there shall be constituted a Zilla Parishad Fund bearing the name of the Zilla Parishad and there shall be placed to the credit there of:

- (1) Contributions and aids by Central and State Government.
- (2) Contribution made by Panchayat Samitis.
- (3) Grants received.
- (4) Proceeds of road cess and public work cess.
- (5) Receipts of tolls, rates and fees levied.

**CHAPTER - XVIII**

**S.183 Budget of the Zilla Parishad**

Every Zilla Parishad shall prepare in each year a budget as prescribed of its estimated receipts and expenditure and submit it to the Government.

**S.186 Audit of Accounts of Funds****S.207 Transfer of Institutions****S.214 Power of Government to Refund or Suspend Resolution of a Gram Panchayat, Panchayat Samiti and Zilla Parishad**

The State Government may by order in writing rescind any resolution passed by these bodies if in its opinion such resolution:

- (1) Has not been legally passed.
- (2) Is in excess or abuse of power conferred under the Act.

**S.220 Appointment of Members by the Government**

The Government may appoint two members of the SC or ST and two women to be members of any Gram Panchayat, Panchayat Samiti or Zilla Parishad.

**S.223 Power to Remove**

The State Government. may remove with effect from the date to be specified any Pradhan, Upa-Pradhan, Sabhapati or Sahakari Sabhapati or any Sabhadipati and Sahakari Sabhadipati from his office if in its opinion he is not discharging his duties.

## CHAPTER - IV

### OFFICIALS' PERCEPTION OF PANCHAYATI RAJ INSTITUTIONS

In the present chapter an attempt has been made to present the opinion of officials as to what they perceive about the functional utility of Panchayati Raj Institutions in their respective states and how they conceive the usefulness of two proposed constitutional amendments in regard to restructuring and strengthening of the Panchayati Raj Institutions. It was thought proper because of the fact that the government functionaries, working at the field level, may have the better knowledge about the functioning of Panchayati Raj Institutions and their view points may help us to shape the things in proper perspective. But unfortunately, on our field visit, we could not get the desired cooperation from the officials in the sense that hardly one percent officials, after filling up our printed questionnaires, returned it to us and remaining nintynine percent assured that they may send it by post within a fortnight. But unfortunately, till the writing of the Report no filled up schedule has been received by us. However, we succeeded in our mission to some extent in the sense that during the period of the study our Institute organised two Training Programmes namely 'Development Through Participation' for district level functionaries engaged in rural development programmes and Panchayati Raj Institutions. We served our questionnaire and then got it returned in complete form during the completion of Training Programme itself. Putting together the opinion of the participants of Training Programme and a few responses from the field, we got the responses of 30 officials. Our questionnaire included both opinionative and

fixed answer questions. The replies of the respondents to our fixed answer questions are presented at the end of the chapter in tabular form. The reply of the questions which were opinionative in nature are presented statewise in explanatory form.

#### Andhra Pradesh

First of all we wanted to know about official's awareness of the 64th Constitutional Amendment Bill and its basic features. The respondents, though small in number, expressed their awareness about the Bill and had some vivid memory of ideals and the objectives of the Constitutional Amendment Bill and rationale behind it. They were of the opinion that the proposal was good in the sense that it provides for regular elections to the Panchayati Raj Institutions and provision for the Finance Commission for Panchayati Raj. In regard to the rationale they had to mention that since the State governments were not taking keen interest in seeing P.R. Institutions a success, the central government by clothing Panchayati Raj Institutions with legal sanctity attempts to provide constitutional legitimacy to them.

When asked 'whether the P.R. Act of the concerned State was satisfactory', respondents, by and large, were not satisfied with the Act in the sense that in their opinion P.R. Institutions had no financial power which came in the way of speedy and effective implementation of development programmes. Their other reaction was that no government department at the district level was under the control of Zilla Parja Parishad/Mandal Praja Parishad and at the same time there were frequent changes in the Act which made P.R. Institutions ineffective leaving them like a person whose hands and legs are tied. They further pointed out that apart from having

little administrative powers over various development departments, the Panchayati Raj Institutions require sufficient financial devolution.

After knowing the deficiencies of the existing Act, we wanted to know their reactions in regard to the plus points of the proposed amendments. The points the respondents made are: provision for periodic elections, increase in powers, controls on the functionaries, provision for sufficient financial resources and election within six months if at all P.R. Institutions are superseded.

However, in regard to elections, they had to suggest that there should be direct elections upto Mandal level but preferred for indirect election at Zilla Praja Parishad level. Explaining other points, they said that elections should be regular feature, clearcut statutory powers to P.R. Institutions and regular flow of finance should be the redeeming features.

To a deeper query as to whether rules framed by state government, sometimes, make P.R. Institutions ineffective. Their spontaneous reply was 'yes', this is a regular feature. Instructions in regard to rules are issued frequently which handicap P.R. Institutions to function effectively. They further said that the rules may be framed only when they are highly essential and that too on the recommendations of P.R. bodies.

Again we wanted to know whether in rule making process peoples' participation is essential, particularly with regard to effective implementation of such rules? In this context they referred that as far as possible effective participation of local bodies in rule

making process should be a must. Before the rules are finally formulated such proposal must be placed before the peoples' representatives to know their reactions.

In regard to ensuring people's participation, they were of the opinion that people's participation can not be ensured if we depend only on their representatives. For that matter Gram Sabha should be made effective instrument of change and development. The implementation of rural development programmes at the field level has raised many eyebrows and the vexing problem is whether it should be left entirely in the hands of bureaucracy or P.R. bodies or both should work hand in glove to see better results? In this context the reply of the respondents was that all developmental activities should be put at the disposal of the middle tier of P.R. Institutions i.e. Mandal Praja Parishad.

There is a general feeling that local level bureaucracy is mainly responsible for making these Institutions ineffective. As such, we wanted to know whether it was a fact and if yes, what could be the reason? The reaction of the respondents was that bureaucracy may not be entirely blamed for the situation. The real problem is that middlemen create major problems. The moment the middlemen are removed from the implementational scene most of the problems would be automatically solved.

In regard to taxation power of P.R. Institutions, we wanted to enquire as to what type of taxes P.R. Institutions could impose? Officials were of the opinion that taxes like house tax, professional tax, land revenue, minerals, cess, registration and stamp duties may be collected by P.R.Is.

After knowing the reaction of respondents on the above mentioned queries, we attempted to solicit their opinion on anything additional to be incorporated in P.R. Act in their State. They were of the opinion that for review purposes some departments like excise, revenue, commercial taxes, forest, agriculture, animal husbandry etc. should be brought under the preview of Zilla Praja Parishad/Mandal Praja Parishad.

In regard to the coordination problem among the three tiers of P.R.Is, they suggested that there should be a clearcut understanding and coordination both vertical and horizontal within the tiers of P.R.Is. They further suggested that coordination is also required between the P.R.Is on one hand and local level bureaucracy on the other particularly in regard to implementation of different rural development programmes. For that matter the Mandal Praja Parishad should have a clear and definite knowledge of all the implementational works being taken up at the Mandal level. In regard to coordination at the district level, they had to suggest that there should not be any interference by the district administration in the activities of P.R. Institutions.

When we wanted to know whether P.R. Elections should be held by Central Election Commission or the State should conduct it? Their quick reply was that the State election machinery is sufficient to conduct and manage the P.R. elections.

In regard to administrative control in existing P.R. system, they were of the opinion that the district administration must be under the control of P.R. and there should be effective control by

the P.R.Is over all the development functionaries working at the District and the Mandal levels.

In regard to the qualifications of the members of Gram Sabha and functions of Gram Sabha, they had to say that all the adult members of the village should be the member of Gram Sabha and all the matters, developmental and otherwise, may be placed before the Gram Sabha. It may have a detailed discussion over specific issues and a final consensus decision is taken which may be implemented by the Gram Panchayat. But, they were also quick to point out that at the present moment Gram Sabhas are in very bad shape and they hardly meet in proper sense of the term. They suggested that some immediate steps must be taken to activise Gram Sabhas and to make them an effective instrument of grass roots democracy.

In regard to the communicational channel to maintain proper communication system, they had to suggest that at the village level Sarpancha should be the main person who should inform Mandal president about the activities of the Gram Sabha and at the Mandal Praja Parishad level the President may be held responsible for communicating at the district level to the chairman Zilla Praja Parishad. Accordingly, the information in regard to Government policies and new schemes may be communicated to the President Mandal Praja Parishad by the Chairman Zilla Praja Parishad and to the Sarpancha of Village Panchayat by the President Mandal Praja Parishad.

In regard to the size of the Gram Sabha, they had to suggest that the maximum size of the Gram Sabha should be 2000 adult members. In regard to the quorum in the meetings of Gram Sabha they had to put a minimum ceiling of 20% and they had to further suggest

that at least three meetings of Gram Sabha must be arranged in a year.

If we look into the statements made by the respondents, one thing is clear that some of the suggestions are quite valuable and the proposed constitutional amendments to a certain extent have taken care of those problems.

Finally, we wanted to know the reactions of the people's representatives in regard to the usefulness and preference for two proposed Constitutional Amendment Bills, they (particularly the Chairman Zilla Praja Parishad), clearly mentioned that though they belong to Telgu Desham Party but they had to confer that the 64th Constitutional Amendment Bill was more elaborate, exhaustive and intended to give real power to the P.R. Institutions. In concluding remarks they had to mention that with slight modifications they would like to go for the 64th Constitutional Amendment Bill. But what should be the 'Slight Modification' that was not mentioned by them.

#### **Bihar**

In Bihar Sachivalaya, the Research Team met the officials of the Directorate of P.R. and served the questionnaire on the officials concerned with a request that it may kindly be filled up. After an hour's discussion with officials they said that their opinion will be discussed and finalised in the meeting and a composit response may be sent to the Research Team by registered post. Though the officials did not oblige the Research Team by giving on spot interviews but they were prompt enough to send their view points within a fortnight in typed form. After looking into

their typed reply, we are of the impression that the replies covered only the convenient questions and inconvenient question have deliberately been left out.

In regard to P.R. elections they were of the opinion that they should be held regularly and in time. If it could not be held due to some unavoidable reasons, the office bearers be allowed to continue till the next elections are held. We are of the opinion that such a vague reply was due to the fact that the P.R. Elections in Bihar could not have been held for the last 12 to 13 years and the old functionaries of P.R. are continuing to their posts.

In regard to supersession of P.R. bodies the reply was that supersession ordinarily should not be favoured. However, the Govt. should have the power to supersede P.R. Institutions if they do not function or discharge their duties as assigned under the Act.

In regard to the representatives of P.R. Institutions being on Finance Commission, they had to say that it has been proposed and accepted in Bihar. They were in favour of State P.R. Finance Commission and said that it should be constituted in right earnest and may be authorised to make positive recommendations for strengthening resources of P.R. Institutions and the same may be considered by the State Government. An inference can be drawn from this statement of the officials that they might not be familiar with the details about State Finance Commission under proposed Constitutional Amendment Bills.

In regard to the powers and functions of P.R.s their reply was that they have been given sufficient power under the Bihar State Panchayati Raj Act and further suggested that regular inspections and audit should be made to see that they function properly. From

their reply, two inference could be drawn viz. these officials treated P.R. Institutions as government organization and not as an institution of grass root democracy, second that the bureaucracy in Bihar tries to put its hegemony over the P.R. Institutions. They further emphasised that P.R. Institutions should be under the direct control and supervision of State Government and there should not be any interference by the Central Government, this was in reply to the question whether P.R. Institutions be put under the concurrent list?.

In regard to a query as to how P.R. Institutions could be strengthened, they were prompt enough to mention that on the lines of proposed amendment bills suitable amendments have already been made in the P.R. Act of Bihar and no further change was required in amended Act of Bihar. (The Bihar P.R. Act was amended in Nov. 1989 on the lines of 64th Amendment Bill).

As regards bureaucratic structural changes in the light of proposed amendments, the officials reply was that a separate cadre of officers and employees may be created exclusively to look after the functioning of P.R. Institutions top from the district down to village level. So created bureaucratic set up should not be given any additional work except for the works related to P.R. Institutions.

But, surprisingly the officials had no idea that the proposed 64th Constitutional Amendment Bill provides for three tier structure of P.R. Institutions for major states. In regard to the reservation of seats on P.R. bodies for SC/STs and women they said that the proposed Constitutional Amendment Bill envisaged such reservations

but they failed to give the exact percentage of reservation proposed.

In regard to auditing of P.R. accounts, a question was put that 'whether the P.R. accounts be audited by the Comptroller and Auditor General of India or the State should have the power to get it audited through its own machinery'? In reply to this question they said that there was no need for getting it audited by the Comptroller and Auditor General of India. Rather they suggested that the State Government has a separate audit organization under the Comptroller and Chief Accounts Examiner of the Bihar P.R. Act provides auditing by the same agency and this is scientific and satisfactory.

In regard to holding the P.R. Elections through Central Election Commission they had to say that to ensure timely elections and smooth running of election machinery it would be better to put P.R. elections at the disposal of Central Election Commission.

A question which has generated a lot of heat and fire by the State Governments is that accepting the 64th Amendment Bill by the State Government is to allow Central Government to encroach upon the State autonomy. And as such, we wanted to know the reaction of the State officials on this point. The officials in their reply were very positive and said that it will not infringe upon the autonomy of the State rather it will provide an opportunity to maintain perfect coordination and understanding between the Central and the State Governments on the one hand and State and P.R. Institutions on the other.

These are official's statements in response to our printed questionnaire. However, based on the impressionistic study the

Research Team is of firm view that the officials of Bihar were not fully acquainted with the P.R. Act. This was substantiated by the informal discussion of Research Team with the Director, Panchayati Raj. He was in the rank of Joint Secretary, State Government, having a Law Degree to his credit. When the Research Team started probing the Director P.R., he said that he can talk about C.R.P.C., I.P.C. and other aspects of law but he can not say anything in regard to P.R. Act because it was beyond his understanding.

However, one good point was noticed that Bihar is perhaps the only State which has incorporated the basic features of 64th Constitutional Amendment Bill in its P.R. Act duly amended in Nov. 1989.

#### Gujarat

Though Gujarat is supposed to be one of the best States so far as effectiveness of P.R. Institutions was concerned. When the Research Team visited the State capital and discussed the issue with the Minister P.R., Chief Secretary, Secretary P.R. and other officials, they explained in detail in regard to strength and weaknesses of P.R. Institutions in Gujarat. However, when we supplied to them our printed questionnaire and elicited their response to those questions, they simply said that the questionnaires will be filled up in leisure hours and after completion, the same be sent back to the I.I.P.A. by post. But the Research Team till the time of writing the Report has not received the filled up questionnaires by the officers. It may be that in view of their detailed discussion with Research Team they might not have filled up the questionnaires. The out come of the discussion

with the officials and the impression of the Research Team have been presented separately in the chapter 'Field notes and observation.

#### **Haryana**

The Research Team served the questionnaire on State level officials in the Secretariat in Chandigarh. In regard to the first query as to what is the basic difference between the two Constitutional Amendment Bills i.e. 64th and 74th Constitutional Amendment Bills. The reply on this query given by the officials gives an impression that the officials either did not follow the question or had no knowledge in regard to both the proposed Constitutional Amendment Bills. For example, their reply was: (i) Reserving seats for SC/ST and women, (ii) Decentralized planning and (iii) giving more powers to P.R. Institutions in planning, implementation and monitoring of the Government programmes. If one looks into the items mentioned by them he would find that all these provisions are there in both the proposed Constitutional Amendment Bills, then what was the difference?

The next question put to them was in regard to free and fair elections of P.R. Institutions and Strategy to achieve the objectives of free and fair elections. Their immediate response was that under the existing provisions there were scope of manipulations in P.R. elections and sometimes bureaucracy was blamed for showing special favour to the party in power in the State. To remove this impression and maintain free and fair elections, it should be conducted by the Central Election Commission.

Much talked about provision under both the proposed Constitutional Amendment Bills is provision for State Finance Commission and its Composition. They welcomed this idea and

suggested that like Central Finance Commission every State should have its own Finance Commission.

A Deeper probe was made as to whether the creation of State Finance Commission will improve the financial condition and thereby the working of P.R. Institutions?. They replied in affirmative and said it will not only improve the financial position of P.R. Institutions but also help bring efficiency in functioning of P.R. Institutions. Further elaborating the point they said that the State Finance Commission may allocate funds to the Zilla Parishads/Districts on the basis of the backwardness of the district and as such, there will be a regular flow of funds top from the district down to the village, quickening the process of development.

A supplementary was put as to whether P.R.Is should have their representation on the State Finance Commission. They said 'Yes', at least one P.R. representative must be the member of State Finance Commission. The selection of the members should be on the basis of Election from amongst the members of Zilla Parishads.

In regard to the functioning of P.R. Institutions there have been a chronic problem of getting P.R.Is superseded. As such, we wanted to knowr whether P.R.Is be superseded and if yes, under what circumstances? Their reply to this query was that, yes, provision should be there for supersession of P.R. Institutions. But they should be superseded under very special circumstances. For example, if the P.R. representatives fail to act as true representative of the people and developmental activities come to a halt. Secondly, if there is any misappropriation of P.R. funds in such circumstances they may be superseded. However, in case of supersession, elections

must be held within six months from the date of supersession and a new Panchayat must be constituted.

We wanted to know as to whether women should have reservation on P.R. bodies'? by and large, the officials were of the opinion that 20% seats on different P.R. bodies may be reserved for women.

In regard to the present arrangement for women on P.R. bodies they said that at the present moment women are co-opted by the Gram Panchayat. This co-option practice should be stopped forth with and there should be provision in the Act for direct election of women for different P.R. bodies.

A question related to administration was asked that if all the developmental works were put at the disposal of P.R. Institutions, what should be the role of District Administration? On this query the respondents were of the opinion that the District Administration may act as a guide and supervisor of P.R. Institutions. The District Administration should motivate the rural masses to contribute positively in the functioning of P.R.Is by way of their effective participation, and by way of participating in planning and implementation and monitoring of various development programmes.

Coming to the problem of coordination we wanted to know 'what should be the coordinating mechanism to coordinate the activities of the three tiers i.e. Panchayat Samities and the Zilla Parishads of P.R. Institutions. In reply to this they had to suggest that at the village level the perfect coordination and understanding between the Panchayats and various functionaries of different development departments should be a precondition. At the block level coordination is required between Panchayat Samities/Block Samities and block level officers. It should be both horizontal and

vertical. At the District level coordination between the Zilla Parishad and officers of various departments is a must. For this purpose a coordination committee at all the three levels must be constituted and the committee must meet regularly to sort out the problems coming in the way.

The most vexing problem is how to activate Gram Sabhas? On this problem we wanted to solicit the opinion of the State government officials. They were of the opinion that to make Gram Sabha more effective there should be a provision of audit of various works done by the Panchayats. Plan projects should be the duty of Gram Sabha and selection of beneficiaries should be left entirely in the hands of Gram Sabha.

We further wanted to know as to whether Haryana Panchayat Act has any provision for making Gram Sabha effective? Their reply was in Haryana Gram Panchayat Act there is provision for at least two meetings of Gram Sabha but practically speaking these meetings hardly take place and if at all such meeting takes place it is in most unorganised manner.

To make rule making more democratic what actions were required was our next query. In reply to this the officials were of the view that before rules are formulated consultation with P.R. representatives should be a must.

#### **Madhya Pradesh**

The new of BJP government in Madhya Pradesh has recently made sweeping changes in its Panchayati Raj Act and as claimed by the officials this new Act of Madhya Pradesh may prove to be the most effective and action-oriented in the country. The officials with a

great enthusiasm were preparing for holding the P.R. elections at the time of the study team visited the state capital. Apart from the Secretariat level officials, the study team also interviewed some district level officers responsible for P.R. administration. In reply to the query as to whether they were familiar with the two Constitutional Amendment Bills in regard to P.R.Is? The officials replied that they were very much familiar and further added that the proposal of giving P.R.Is a Constitutional status is a right step in right direction but this step may affect the autonomy of the State.

In regard to the existing arrangements for holding P.R. Elections and their adequacy or inadequacy the respondents said that the existing arrangements for conducting P.R. Elections had not been so ineffective. To some extent, the machinery have been able to conduct fair and impartial elections. However, agreeing with the provisions of the Bills they stated that to make election machinery effective and meaningful there should be an independent constitutional body (Election Commission) to conduct the P.R. Elections. In regard to the composition of this Commission they stated that it should be on the patterns of State Election Commission.

Coming to the provisions for Finance Commission and representation of P.R. bodies on it, we wanted to know the reactions of officials on this issue. They were emphatic of the view that one representative of P.R. Institutions must be there on State Finance Commission to place the problems and requirements of P.R.Is before the other members of Commission.

In regard to the problem as to whether P.R. accounts be audited by the Comptroller and Auditor General of India, the respondents did

not share this view and stated that it should be left to the State governments and the concerned States may get the P.R. account audited through their own machinery.

The most criticised aspect of P.R.Is is the frequent supersession of P.R. bodies by the State government. As such, we wanted to know the reactions of government officials on this issue. The officials said that in Madhya Pradesh there is no such problem, however, they said that the State government should have the political will to get regular and periodic elections of P.R. Institutions materialised and there should not be any statutory provision of holding the elections of superseded P.R. bodies within six months from the date of supersession.

We further asked that under what circumstances P.R.I. should be superseded? They simply pointed out that the reasons on which the P.R.Is could be superseded have already been incorporated in the P.R. Act 1990 of Madhya Pradesh.

They further mentioned that provision should also be there to suspend the P.R. representatives on the grounds of misconduct, embezzlement and irregularities. On a supplementary put by us as to who should suspend them, the respondents replied that the collector from Gram Panchayat to Janpad level and the State Govt. at the Zilla Parishad level should have powers to suspend such members.

After that we wanted to know as to whether women should be given reservation on P.R. bodies. In reply to that they said that they favour reservation for the women on P.R. bodies and further added that in Madhya Pradesh P.R. Act of 1990 such provisions have already been made. In regard to tier system in P.R., we wanted

to know that whether they would like three tier system or two tier system? The officials replied that for Madhya Pradesh they have already opted for three tier system and to their mind, this system is most effective. In regard to the tenure of P.R. they said that 5 years term is the ideal one for P.R. On their own they suggested that the appointing and controlling power of bureaucracy attached to P.R.Is should entirely be in the hands of P.R.Is. They preferred a separate bureaucratic cadre right from the district down to village level for P.R.Is.

We wanted to know that if the proposed Constitutional Amendment Bills are passed the entire developmental functions will be discharged by the P.R.Is. On this aspect of the problem what was their reaction? The officials replied that in that situation only regulatory and law- order functions should be in the hands of district administration. However, they added that efforts should be made in the direction of ensuring coordination between the district administration and P.R. administration. When put a supplementary as to how this coordination be maintained the officials said that functional linkages will take care of the problem.

Lastly we wanted to know how to make Gram Sabha an effective instrument of P.R. system. In reply to this question the respondents pointed out that ensuring regular meetings of Gram Sabha may make it effective.

Further we wanted to know about the rule making practices under P.R. system. They said that rule making was not a problem in their state and whatever rules were formulated they used to get prior consent of P.R.Is.

### Karnataka

In its first leg of field study the Research Team visited the state capital of Karnataka (Bangalore) and elicited the opinion of Govt. officials in regard to the functioning of P.R. system of Karnataka. The officials were interviewed with the help of structured and guided questionnaire. The first question was put to the officials as to whether they had any idea of 64th Amendment Bill? The officials response was that major rural development departments including rural electricity (which was left out in Karnataka P.R. Act) have been included in the bill.

To our query as to what was the reason behind the introduction of 64th Constitutional Amendment Bill? The officials replied that the basic reason behind the bill was to give autonomous status to P.R. On the point of difference between the two Amendment Bill i.e. 64th and 74th, they had to say that there was no fundamental change except for the fact that 74th Amendment Bill has tried to maintain that autonomy of the states in regard to P.R.I.

In regard to present election system and their limitations the officials pointed out that the interest of the minorities have been overlooked whereas the proposed Bills take care of that. In regard to the drafting of a new Act and incorporation of some new provisions they said that indirect elections for the higher tiers with reservation at the topmost by rotation should be there. P.R. Institutions should be encouraged to mobilize their own resources for which genuine assistance and guidance be provided by the State.

When we asked who should conduct P.R. elections? The officials said that an independent statutory body i.e. Election Commission should conduct the P.R. Elections.

In regard to status, composition, powers and functions of Finance Commission, the officials replied that some Government officials, economists and some renowned politicians with clean image be appointed as members of the Finance Commission. If such provisions are made, only then the Finance Commission will be in a position to improve the financial condition and thereby working of P.R.I.

To a query as to who should audit the Panchayati Raj accounts?, the officials replied that giving audit to the agency like the Comptroller and Auditor General of India is perfectly alright.

Under what circumstances the P.R.I be superseded was our next query. The officials out spokenly said that on the charges of corruption they may be superseded. When we asked 'Are you satisfied with the present provisions for supersession?', the officials said 'No'. Giving details the officials further said that at the present moment P.R.I. are superseded on political grounds.

In reply to the query of rule making power of State legislature for P.R., the officials said that before the rules are framed they should be evaluated at all the tier levels and after getting the approval of P.R.I, the rules should be framed.

To a supplementary as to how people's participation could be ensured? the officials said that it could be ensured by encouraging, educating, and giving expectations in regard to sharing the benefit of development programmes and by way of activating Gram Sabhas.

In regard to developmental activities, we wanted to know from the Government officials as to whether all the development works should be left at the disposal of the Panchayati Raj Institutions?. The officials, by and large, were of the opinion that the proposition is not bad, however, they added that before the entire developmental works are handed over the Panchayati Raj Institutions, proper administrative and physical infrastructure should be created at all the three levels i.e., Mandal/Taluk and District levels. This will help in quickening the process of implementation.

In regard to the question of women's participation, the officials said that since women constitute nearly fifty per cent of the population and they are subject to subjugation, to bring back them to the mainstream, their participation should be encouraged. They further stated that keeping this fact in view the Karnataka Panchayati Raj Act provides for 25% of seats reserved for women. However, they were quick to add that despite this reservation women's participation on Panchayati Raj bodies is not taken seriously. Even the elected women representatives appear to be lukewarm in deliberating effectively in the formal meetings of Panchayati Raj bodies and are hardly in a position to influence the decisions. However, educated women having urban background have played and still playing decisive role in P.R. affairs.

Some states approved direct elections and some other states prefer indirect elections to Panchayati Raj bodies. In such a situation we wanted to know the opinion of Government officials as to what mode of election they would prefer for their State? The officials categorically voted in favour of direct elections.

So far as the financial position of Panchayati Raj Institutions is concerned, they are really in a very bad shape and as such we wanted to know from the officials as to how to improve the financial position of the Panchayati Raj Institutions and the type of taxes they could levy? In reply to this query the officials stated that Panchayati Raj Institutions entirely depend on the funds given to them by the State Government and the amount being released by Central Government towards implementation of centrally sponsored programmes. They never try to augment their own resources. Officials were of the opinion that Panchayati Raj Institutions can create assets of their own by levying taxes like house tax, shop and health tax, sand, granite and other minor taxes - small scale industries taxes and by way of collecting land revenue.

On the basis of their long experience in Government services, we wanted to know from the officials as to whether they would like to add something more to the existing Panchayati Raj Act of Karnataka. In this connection, they said that provision should be made to encourage Panchayati Raj Institutions to develop their own resources to become self-sufficient and autonomous institutions. They further added that there should be little administrative and political interference right from the State down to the district level.

Coordination is such a problem which causes anxiety in every sphere of administrative system and the more we talk about better coordination the more the problem is aggravated. As such we wanted to know the officials view as to what mechanism for maintaining better coordination they would like to suggest? In reply to this query the officials suggested that each tier of Panchayati Raj

Institutions should have its own style of functioning with little interference from above and government officials. A proper coordination mechanism be chalked out giving no scope for communication gap and it should be a two way traffic.

In regard to relationship between District Administration and Panchayati Raj Institutions the officials had to suggest that efforts should be made to ensure better co-ordination between District Administration and Panchayati Raj Institutions.

After knowing these facts we put a general query that different models of Panchayati Raj are obtained in our country, which model in their opinion was the best? The officials response was that the West Bengal model and their own model are supposed to be the best.

In regard to control mechanism relating to Panchayati Raj Institutions they had to suggest that there should be direct control by the District Administration (Zilla Parishad) over the Mandal. The District Administration apart from controlling power should act like a friend, philosopher and guide to the Mandals.

Coming to the problem of activating Gram Sabha and the powers and functions to be exercised by the Gram Sabha the officials replied that the main functions of the Gram Sabha was preparation and implementation of plans at the village level, identification of the beneficiaries, social audit etc. But with pain and anguish the officials pointed out that unfortunately the Gram Sabhas are used by the politicians as a political propaganda machinery. Pointing out the usefulness of Gram Sabha they suggested that if Gram Sabhas are really effective they can really help in avoiding the misuse in implementation of development schemes.

In regard to the size of the Gram Sabha the officials suggested that an effective strength of 400-500 people can be an ideal number. They further suggested that by fixing a common code of conduct, a definite venue of meeting of Gram Sabha and timely informations of the meetings of the Gram Sabha particularly on a free day may add to the effectiveness of the Gram Sabha. The Gram Sabha could also be attracted and can be made a happy meeting ground by arranging recreational, festive and other interest articulating activities. If all these steps are taken in right earnest, in the opinion of the officials, Gram Sabhas may be turned into an effective agency of participatory democracy.

#### **Uttar Pradesh**

We could not get the views of the officials as they did not fill up the schedule. However, during the course of our stay, through informal discussions with the officials, we could gather their views on some important issues.

In regard to the issue of conduct of elections to Panchayat Raj Institutions in Uttar Pradesh, the officials were of the view that timely elections should be ensured and the Panchayats should be allowed to complete their term as far as possible.

In regard to the role of Gram Sabha in ensuring peoples' participation in plan formulation and implementation, the officials were of the view that, of late, people's participation in Gram Sabha meetings has been on decline. They were of the view that unless Gram Sabhas are activated no meaningful purpose will be served by the panchayats. When asked about Gram Sabhas' role in implementation of development schemes, the officials said that at the Gram Panchayat level they are not very active.

In regard to the query about women's participation in the activities of the Panchayats the officials were of the view that so far women's participation has not shown encouraging results. The officials felt the low level of education and traditional social customs were some of the reasons as to why women's participation is not upto the mark. We probed further as to whether reservation of seats upto 30% would increase their participation? The officials were not optimistic about it.

In regard to the query on financial position of the Panchayats the officials were of the view that as the Panchayats have not been able to mobilise resources on their own, their financial position is not very good. The State Government has not been able to help them Financially. They also felt that corruption is on the increase in the panchayats and this needs to be stoped.

#### **West Bengal**

When the Research Team visited the State Capital of West Bengal (Calcutta) it arranged a meeting with the Secretariate level officials. In the meeting itself the Research Team explained the purpose of the visit of the research team and served on them a printed questionnaire with a request that it may kindly be filled up but only one official filled up the questionnaire. In such a situation the Research Team without looking into the questionnaire put up some queries already covered in the questionnaire and wanted to know the reaction of the officials. In this process our first query was as to who should be responsible for Panchayati Raj elections, the officials were of the view that the Panchayati Raj elections should be controlled and surprised by the State Government

only and not by the independent constitutional body as Election Commission.

Then we turned the attention of the officials towards provision for Finance Commission as incorporated in the proposed Constitutional Amendment Bills. The officials were prompt to say that it was not necessary and they also felt that it will also not necessarily lead to the improvement of the financial conditions of the PRIs. In their opinion the existing disbursing of funds by the State Government to the PRIs used to serve the purpose.

Similarly the highly talked about criticised aspect of 64th Constitutional Amendment Bill is the provision of Audit of Panchayati Raj Institutions' accounts by the Comptroller and Auditor-General of India. As such we wanted to know the officials reactions. The officials were categorical of the view that it was not at all necessary to get the Panchayati Raj accounts audited by the CAG. They were of the opinion that the 'Gram Panchayat State Authority' should audit the Panchayat Raj accounts.

In regard to supersession of PRIs and the mechanism to solve this problem, the officials responded that in case of West Bengal it does not apply. They said that West Bengal PRI are rarely superseded. If at all they are superseded a new elected body is installed within a very short period.

Further we wanted to know whether they would like to have some changes in the existing Act of West Bengal. They said yes there should be statutory mandatory provisions that the elections to the superseded PRIs must be held maximum within a period of one year. To the point on what ground the PRIs should be superseded their reply was that the Panchayati Raj Act S.214 clearly states that in

case of financial irregularities, flouting of work instructions and persistent failure to comply to the instructions, the Panchayati Raj Institutions may be superseded. Again in regard to the suspension of the members of PRI they said that S.213 of Panchayati Raj Act is clear enough and does not require any change.

In regard to representation of SC/ST, they had to suggest that on the basis of the population separate reserved constituencies should be carved out for SCs and STs. On the question of women's representation and reservation on Panchayati Raj body, their reply was that they should get reservation and separate constituencies may be created for them which may be rotated from one constituency to another.

In regard to the ideal tiers for Panchayati Raj Institutions, the officials said that three tier system is ideal one and the term of office of the elected representatives like West Bengal should be of five years. They were also of the opinion that a Separate cadre of Panchayati Raj bureaucracy be created which should be under the direct control and supervision of the State authority.

Since all the developmental activities have already been transferred to PRIs in West Bengal, the officials said that the district administration apart from its traditional functions of revenue administration and maintaining law and order, must play a coordinating role with the PRIs in developmental activities.

We further probed as to how better co-ordination could be ensured between PRIs and district administration. To this probe, their reply, was this, that in the case of PRIs the Act provides for a supervisory role for higher tiers. However, they were not

satisfied by the functioning of the Nyaya Panchayats in the State. For that matter they suggested that village level courts may be set up under the judiciary.

We wanted to know whether the rules framed by the State Government from time to time in regard to PRIs proved to be an stumbling block in their efficient functioning? In reply to this query the officials said that West Bengal is free from such problems. If at all it was required, they were rarely framed and that too after the prior consent of the PRIs.

**Response of Participants of Training Programme:  
'Development Through Participation:**

As already stated in the beginning that due to limited number of respondents from the different State headquarters, we tried to elicit the opinion of district level officials joining the above mentioned programmes in two batches between Sept. 22 to October 4, 1990, and between Feb. 4 to Feb. 14, 1991. Their reply to our pointed queries are presented below.

First of all we wanted to know their understanding about the proposed Constitutional Amendment Bills, i.e., 64th & 74th. The officials replied that the objectives of both the Amendment Bills are to give power to the people, take care of independent financial resources of P.R. Institutions and having proper auditing of the incomes and expenditure of P.R.Is. The 64th Amendment Bill provides for giving Constitutional status to PRIs whereas 74th Constitutional Amendment Bill aims at giving power to the people by way of more delegation of power.

They further stated that a doubt was created in the minds of the people and politicians that 64th Constitutional Amendment Bill

may weaken the federal structure of the polity. On the other hand, the general impression about the 74th Amendment Bill was that it aimed at strengthening democracy at grass root level without affecting the federal structure of the polity. As such, according to them the basic difference between the two Bills is that 74th Amendment Bill believed in devolution of power to P.R.I whereas, 64th Amendment Bill in the name of P.R.Is aimed at encroaching upon the powers of States having tight control over P.R.Is by the Centre.

In regard to the present arrangement for holding P.R. elections, we wanted to know whether the present arrangement for conducting P.R. elections have achieved the objectives of timely, independent and fair elections. The officials reply was that so far electoral process was concerned it was alright, and they further added that due to politicization and growing awareness of the people as also increase in education may lead to free and fair elections in the due course of time. However, they added that the features of present electoral process are: use of money and muscle power and capturing of booths on the lines of Lok Sabha and Vidhan Sabha elections. As a result, the interests of the minorities and weaker sections of the society are not taken care of at all. Again they pointed out that instead of getting the counting of votes at the H.Q. of the block, it is being counted at the pooling booths itself which results into the coercion of and vengeance by the dominant sections after the election results are announced. As such they suggested that after the pooling is over the entire ballot boxes be collected at the block headquarters and counted at the block headquarter of the district itself without keeping booth-wise break up of results. They further suggested that when the dates for

elections of P.R.Is are announced all P.R. bodies should be dissolved and for the time being the development works may be taken care of by the block level officers.

To a deeper query as to what would be their suggestion in regard to the status, composition and powers of the proposed Election Commission? The respondents pointed out that the basic duties of such a Commission should be to conduct free and fair elections, to ensure their periodicity, to get the vacant seats filled up through election within three months from the date vacancy exists, and to settle the disputes arising out of the electoral process.

In regard to the composition of the proposed Election Commission the respondents pointed out that such an Election Commission should be nominated body constituted within close cooperation of the Centre and concerned State. However, they were quick to add that there was no need to create an Election Commission. The existing Election Commission is competent and capable enough to conduct, monitor and evaluate the electoral process. It was further emphasized that it must be free from political interference and be headed by the person known for his efficiency and integrity. One of the respondent's suggested that the Central Election Commission of India has got its representative, i.e., Chief Election Officer in every State and he may conduct P.R. Elections the manner in which the Parliamentary and State Legislature Elections are conducted.

Coming to the question of Finance Commission we wanted to know as to what should be the status, composition and powers of proposed

Finance Commission? The respondents suggested that the State Finance Commission should be responsible for the allocation of Fund to the R.R. Institutions. It should be independent of political influence and should enjoy the constitutional status. It should be consisted of eminent economists, persons having intimate knowledge and experience of P.R.Is, and some technocrats and social activists.

In regard to powers of the Commission they said that the Commission should be responsible for the distribution of net resources (proceeds) of taxes, duties, fees etc. between the State and P.R.Is as also the determination of taxes, duties, tolls etc. to be imposed by the P.R.Is on the local people. It should also take care of distribution of Grants-in-aid to the P.R.Is from consolidated fund of the State.

A question was put to the respondents that under what circumstances, the Panchayati Raj bodies should be superseded? In reply to this question the respondents said that P.R. bodies may be superseded if they become inactive and do something irregular. To further emphasis that if they flout the instructions of the higher tiers as laid down in the Act and behave in irresponsible manner they may be superseded. If P.R.I show inaction in the execution of development programme, misuse the government funds and indulge in corrupt practice, this may lead to their supersession.

Closely connected to this a further query was made as to which authority should suspend those elected representatives who are found to be negligent in duties and indulging in corrupt practices. The respondents said that from the Panchayat Samiti to Zilla Parishad the State Government should have the authority to suspend such elected representatives. At the Gram Panchayat level this power

should rest with the Sub-Divisional Magistrate. However, only one respondent suggested that Zilla Parishad should constitute a vigilance Committee and this committee should have power to suspend the erring people's representative.

In regard to women's representation in the proposed amendment, the respondent's said that reservation of seats on Panchayati Raj bodies for women is a right step in right direction. However, they suggested that to educate women about the value of their participation in local decision-making all political parties should have their women's wing at the grass-roots level which may act as a motivating agent to ensure women's participation in local decision-making. Some of them suggested that the principle of 30% reservation should be strictly followed and apart from this women may also be encouraged to seek elections from general seats.

However, yet another respondent had to express different view. In his opinion reserving nearly one third of the seats for women may ultimately result into carving out reserved constituencies for women but, under the existing social scenario it may prove to be difficult to find suitable women candidates for such reserved constituencies. Such reservation may lead to denying some articulate public men to enter into electoral arena.

As regard the problem of coordination among the different tiers of P.R.Is the respondents were of the opinion that coordination may be maintained by way of developing awareness towards role and responsibilities among the people's representatives. Direct interaction and constant flow of information up-down and down-up may also help in maintaining coordination. Some of the respondents

mentioned that the elected members of Zilla Parishad, M.L.As. of concerned area in confidence with B.D.O., S.D.M. and D.D.O/ D.M. may help in maintaining perfect coordination between the different tiers of P.R. Institutions. Organizing seminars, symposium and Annual Conference may also help in maintaining coordination.

There was a question as to how to make Gram Sabha viable and effective? In reply the respondents were of the view that ensuring regular meetings of Gram Sabha may prove quite useful. Representatives from each ward may be made responsible to ensure the participation of the members of Gram Sabha in the convened meetings. At the same time they had to suggest that voluntary organizations and government officials may play a vital role in motivating the members of Gram Sabha to participate in the meeting by way of educating them in regard to sharing the benefits of development programmes.

As regards the meetings of the Gram Sabha most of the respondents strongly felt that instead of two meetings in a year there should be four meetings of Gram Sabha in a year. Village school teacher may also provide a helping hand in ensuring the effectiveness of Gram Sabha. Some of the respondents were of the view that delegating more power and responsibilities may help in making Gram Sabha viable and effective.

In the preceding pages the view expressed by the Govt. officials of different states and the participants of the training programmes have been presented in explanatory form. The explanation is based on the opinion expressed by the respondents on our open-ended questions. As regards the opinion of respondents to the fixed answer question they are presented below in tabular form.

Table 4.1

Are you familiar with the proposed Constitutional Amendment?

	R	Percentage
Yes	30	100%
No	0	0

Table 4.2

Proposal of Constitutional Status to P.R.

	R	Percentage
1. Giving power to the people	14	46.66%
2. Strengthening democracy at grass-root level	12	40.00%
3. Affecting State autonomy	2	6.67%
4. Demolishing federal structure	2	6.67%
Total	30	100.00%

Table 4.3

Who should conduct the P.R. Elections?

	R	Percentage
1. Should it be controlled by State Government	3	10.00%
2. Independent State Statutory body	12	40.00%
3. Independent Constitutional body (Election Commission)	15	50.00%
4. Any other		
Total	30	100.00%

Table 4.4

Who should audit the P.R. Funds?

	R	Percentage
1. State Government	10	33.33%
2. State Statutory Authority	5	16.67%
3. Central Government	-	-
4. Constitutional Authority like C.A.G.	14	46.67%
5. Any other C.As	1	3.33%
Total	30	100.00%

Table 4.5

Are you satisfied with the present system relating to supersession of Panchayat Raj Institutions?

	R	Percentage
Yes	20	66.67%
No	10	33.33%
Total	30	100.00%

Table 4.6

What changes are required to be introduced in your existing Act to ensure prompt Election to superseded Panchayats?

(a) Are you in favour of mandatory statutory time stipulation of six months for re-election?

	R	Percentage
Yes	26	86.67%
No	4	13.33%
Total	30	100.00%

Table 4.7

Are you satisfied with the prevailing practices of  
suspension of members of the Panchayats?

	Response	Percentage
Yes	18	60.00%
No	12	40.00%
Total	30	100.00%

Table 4.8

What is your opinion on the representation of SC/ST  
on P.R.s, whether present system is adequate?

	Response	Percentage
Yes	14	46.67%
No	16	53.33%
Total	30	100.00%

Table 4.9

According to your experience which tier of P.R.  
is functionally suitable to your state?

	Response	Percentage
One tier	-	
Two tier	10	33.33%
Three tier	20	66.67%
Four tier	-	
Total	30	100.00%

Table 4.10

What should be the tenure of P.R.Is?

	Response	Percentage
3 Years	4	13.34%
4 Years	7	23.33%
5 Years	16	53.33%
6 Years	3	1.00%
Total	30	100.00%

Table 4.11

Are you satisfied with the functions of Nyaya Panchayat in your state?

	Response	Percentage
Yes	14	46.67%
No	16	53.33%
Total	30	100.00%

Table 4.12

Are you satisfied with present practice of Rule - Making?

	Response	Percentage
Yes	22	73.33%
No	8	26.67%
Total	30	100.00%

Table 4.13

Have the required Rules been framed in your State?

	Response	Percentage
Yes	20	66.67%
No	10	33.33%
Total	30	100.00%

Table 4.14

Have you any idea of 64th Constitutional Amendment Bill?

	Response	Percentage
Yes	25	83.33%
No	5	16.67%
Total	30	100.00%

Table 4.15

Do you feel that local level bureaucracy is responsible for making Panchayati Raj Institutions ineffective?

	Response	Percentage
Yes	18	60.00%
No	12	40.00%
Total	30	100.00%

Table 4.16

Do you feel that entire development programmes should be left in the hands of P.R.Is?

	Response	Percentage
Yes	16	53.33%
No.	14	46.67%
Total	30	100.00%

Table 4.17

Do you feel that political parties be allowed to enter  
into P.R.I's elections in their formal capacity

	Response	Percentage
Yes	20	66.67%
No.	10	33.33%
Total	30	100.00%

Table 4.18

Wither provision of Finance Commission will help  
in improving the finance of P.R.I's

	Response	Percentage
Yes	25	83,33%
No.	5	16,67%
Total	30	100.00%

## CHAPTER - V

### FIELD NOTES AND OBSERVATIONS

Maintaining field diary and observing the reactions of the respondent are the important tools of empirical investigation. In the course of the field visit of select states we literally followed these methods. The information so collected are presented in the Chapter. We thought it proper to present it state-wise just to reflect as to what officials and peoples' representatives think about the proposed constitutional amendments in regard to Panchayati Raj and functioning of these institutions in their respective states.

#### **Andhra Pradesh**

During the rule of Telgu Desham Party the Panchayati Raj Acts of Andhra Pradesh were changed and on the lines of the recommendations of Ashok Mehta Committee the Government of Andhra Pradesh implemented the system through out the State. However, immediately after coming to power in 1989, the Congress Government appointed an expert Committee headed by B.P.R. Vittal to look into the maladies of the system operating and to suggest measures to strengthen them both structurally and functionally. Basically two problems are before the Committee for consideration i.e.; whether to retain the Mandal system or to replace it by Panchayat Samiti and secondly whether there should be direct or indirect elections for the higher tiers. After having discussion with the Chairman and the members of the Committee the Research Team observed that in their

opinion the 64th Constitutional Amendment Bill was better. However, their impression appeared to be that the Panchayati Raj Institutions may be given constitutional status but working out of the details in regard to the functioning of Panchayati Raj Institutions be left to the discretion of State governments concern. To achieve the goals of development and social change the State government and the Panchayati Raj Institutions should work in mutual cooperation.

It was also observed that the officials did not relish the idea of having State Finance Commission and audit of Panchayati Raj accounts by the Comptroller and Auditor General of India. They also did not favour the idea of having a separate election machinery for holding Panchayati Raj elections.

Even the peoples' representatives and the Chairman of Zilla Praja Parishad, being the members of the opposition party, observed that the 64th Amendment Bill was more elaborate, exhaustive and highly acceptable. The peoples' representatives had full satisfaction in regard to the functioning of Panchayati Raj Institutions. However, as per their assessment lack of financial resources have put Panchayati Raj Institutions at the receiving end. It was observed that Panchayati Raj Institutions failed to augment their own financial resources out of fear of being unpopular among the masses. There was a suggestion in this regard, by people's representatives, that the Panchayati Raj Institutions may recommend certain taxes to be levied, but the collection work of such taxes may be done by the local level bureaucracy.

In the existing Act power of transferring school teachers was in the hands of Chairman Zilla Praja Parishad. However, it was observed that such power was being misused for political purposes and or for monetary gains. In this connection an observation was made that this power should rest with the Chairman Zilla Praja Parishad but some checks and balances should be searched out. Based upon our observation the following points emerged in regard to the Panchayati Raj Institutions in Andhra Pradesh:

- 1) At the present moment the development plans of a district is prepared by the District Planning Board. It was observed that the respondents felt that the planning for development should be prepared by the Gram Panchayat.
- 2) Powers of the Zilla Praja Parishad should be increased.
- 3) The size of the Mandal Praja Parishad should be curtailed and it should be in the radius of 20-25 Kms.
- 4) There should be three tier Panchayati Raj System in the State and a Mandal Praja Parishad should not exceed the population of 50 or 75 thousands.
- 5) An executive Officer should be appointed having authority to collect the revenues. He should also be held responsible for the recovery of loans.
- 6) There should be direct election from Gram Panchayat to Mandal Praja Parishad level. However, provisions should be there for indirect election of Zilla Praja Parishad.
- 7) A State Finance Commission should be set up with a provision of audit of accounts by the State agency.

- 8) 64th Constitutional Amendment Bill was better in comparison to 74th Constitutional Amendment Bill.
- 9) Panchayati Raj should be in the concurrent list of the Constitution. However, only broad outlines in regard to Panchayati Raj Institutions should find place in the Constitution.
- 10) The 64th Constitutional Amendment Bill should be given constitutional sanctions. But the term Governor should be replaced by State Legislature.

### **Bihar**

After going through the amended Panchayati Raj Act of Bihar it may be observed that Bihar being the first state to incorporate the provisions of 64th Constitutional Amendment Bill in its Act. However, it is interesting to observe that the provisions of 64th Amendment Bill have been so incorporated that they do not infringe upon the autonomy of the state.

Though Panchayati Raj Act of Bihar is most exhaustive and gives too much power to Panchayati Raj Institutions yet we observed that Panchayati Raj Institutions in Bihar are really in very bad shape. It can be said that either they exist on paper or they have become a toy play in the hands of the local elites and state politicians.

The disappointing features of Panchayati Raj Institutions, observed by the Research Team may be summarised as follows:

- i) Panchayat Raj elections has been a very irregular phenomena. It was observed that elections to the Gram Panchayats and Panchayat Samities could not be held since 1978. It was equally disheartening to observe that Zilla

Parishads have remained superseded since 1986. The irregular phenomena of holding elections and supersessions of Zilla Parishads might have prompted the Patna High Court to pass a judgement directing State Government to hold Panchayati Raj elections in right earnest. Perhaps, this might have been one of the reasons as to why Panchayati Raj Institution were not functioning properly in Bihar.

- ii) It was also observed that the financial position of Panchayati Raj Institutions in Bihar was in a very bad shape and most of these bodies were starving of funds. Due to the lack of funds no meaningful development activity was being taken up by the Panchayats. The misuse of JRY funds was apparently visible.
- iii) It was also observed that Panchayati Raj Institutions were not interested at all in mobilising their own resources. Even the collection of land revenue, which was under the preview of Gram Panchayats was not taken seriously. Unfortunately the State Government too did not make a serious bid to mobilise resources for Panchayati Raj Institutions.
- iv) It was also disappointing to observe that peoples' participation was totally lacking in the functioning of these institutions of grass-roots democracy. Gram Sabhas used to be a defunct body and used to meet on paper only.
- v) It was also observed that even the old Bihar Panchayati Raj Act provided for women's representation through

cooption. But the actual participation of women in Panchayati Raj Institutions was far from satisfactory. Though the Amended Act of 1990 provides for 30% reservations of seats for women but, keeping in view the feudal mentality of Biharis, it can be every bodies' guess as to how these reserved seats could be filled up through elections.

### Gujarat

Gujarat is one of the few states where Panchayati Raj experiment had been very successful. The success of these institutions may be attributed to the land itself which produced great personalities like Mahatma Gandhi and Sardar Ballabbhai Patel. Apart from the successful functioning of Panchayati Raj Institutions, the role played by Panchayat Parishad a non-governmental agency has also been quite laudable.

It was observed during the field visit that the Panchayati Raj Institutions in Gujarat were completely different from other states. It was in the sense that the people and the government both have realised the strategic importance of Panchayati Raj Institutions in development. More over it was observed that the institutional norms were being observed and functionaries right from the village to District level were basically guided by Bania ethics.

It was also observed that both the people's representatives and government officials were not very much enthusiastic about proposed constitutional amendments in regard to Panchayati Raj Institutions. As per their perception when these institutions were functioning well what was the need for any change?

People were taking keen interest in the affairs of these institutions and these institutions were functioning in their own right without any interference from the outside.

In regard to women's participation in Panchayati Raj, it was observed that like other states, Gujarat too did not reflect any encouraging trend. In this regard the government officials and the people's representatives observed that non-participation of women may be attributed to traditional outlook and low percentage of literacy among rural women. However, a feeling among the officials was observed that reservation of seats for women should be part of Panchayati Raj Act of the state and in the gradual course with more and more socialization in the due course of time women may participate effectively in Panchayati Raj process.

It was also observed that the state did not favour the idea of having a Finance Commission and a separate Election Commission for Panchayati Raj Institutions. The idea of having direct elections for all the tiers on party basis was also not favoured by the state.

Direct control of the central government over Panchayati Raj Institutions was also not favoured.

However, giving constitutional status to Panchayati Raj with all powers vested with the state government was favoured.

An encouraging trend observed was that in the state right from the planning to the implementation, entire development works are looked after by the Gram Panchayats. However, it was also observed that planning bodies need to be strengthened.

A disappointing observation may be made that the D.D.O and the Chairman of Zilla Panchayats were, by and large, not having good

relations and some times there was communication gap, as a result the development programmes did not get the proper push.

In regard to giving constitutional status to Panchayati Raj Institutions, it was observed that peoples' representatives felt that there should be written provisions as to what should be the relationship between the peoples' representatives and local level bureaucracy.

#### **Haryana**

Out of eight states selected for the study purpose, Haryana was the only state having two tier Panchayati Raj System i.e. Gram Panchayat and Panchayat Samiti. The Zilla Parishad was abolished in 1973. However, for the last two years the elections to Panchayat Samities have not taken place and as such in operational terms only Gram Panchayats were functioning in Haryana.

Some of the significant observations, the Research Team could make in course of field visit, are as follows:

- i) An over all view, of both officials and non-officials, was that Haryana should have three tier model of Panchayati Raj.
- ii) Peoples' participation in the affairs of Panchayati Raj Institutions showed a declining trend.
- iii) Traditional Panchayats exist in the Haryana village having considerable influence in comparison to formal Panchayats.
- iv) Irregular elections to Gram Panchayats and Panchayat Samities and abolition of Zilla Parishads have made these institutions very weak, as a result these institutions have come under the grip of local level bureaucracy.

- v) It was also observed that favoring 74th Constitutional Amendment Bill the Haryanavis felt that state autonomy over Panchayati Raj Institutions should not be compromised,
- vi) By and large, the idea of having a Finance Commission was favoured but the creation of separate Elections Commission was opposed.
- vii) Reservation of 30 percent seats for women on Panchayati Raj Institutions was not favoured. It was all due to lack of interest on the part of women to participate in the affairs of Panchayati Raj Institutions. As such a giant size image of Patriarchical society was clearly reflected in Haryana villages;
- viii) The idea of having formal participation of political parties in the affairs of Panchayati Raj Institution did not find favour;
- ix) Frequent amendments in Panchayati Raj Act was disliked by one and all ; and
- x) Transferring all development work to Panchayati Raj Institutions got very encouraging response.

#### **Karnataka**

Karnataka is a state, which has come in limelight in recent years for its experiment with Panchayati Raj Institutions and fortunately the experiment has widely been acclaimed. As such the Research Team was very much inquisitive to know about the experiment and its impact on the government servants and general masses. With this aim we decided to meet the government officials, and peoples'

representatives separately to know about the ground realities. During the course of informal discussion with above mentioned two sets of functionaries what ever observations the Research Team could make are presented below. The first relates to peoples' representatives and the second one relates to government officials.

# I

- i) It was observed that, by and large, the peoples' representatives felt that direct elections to Panchayati Raj Institutions have led to groupism and political rivalry in rural areas.

The direct election has also led to capturing of power by the dominant sections of the rural society in Panchayati Raj Institutions. It has also resulted into non representation of OBCs and SCs on Mandal Panchayats. According to some information out of 103 Mandal Panchayats not even a single member of the schedule caste is a Pradhan.

- ii) In regard to women's participation in the affairs of Panchayati Raj, it was encouraging to observe that women members played much more an effective role in comparision to their male counter parts.
- iii) It was observed that due to the non-cooperation of district police the social justice committees were facing a lot of problems and they were not functioning efficiently. In this regard a suggestion by the Research Team to have a cadre of Panchayati Raj police found encouraging favour.

- iv) By and large, an opinion emerged during the course of discussion that when ever there was any amendment in the Panchayati Raj Act the representatives of these institutions should be consulted.
- v) It was also observed that at the present moment the Pradhan was not accountable to any body for his acts of omissions and commissions. In the present frame of things the total accountability lies with the Mandal. As such there should be amendment in the Act making Pradhan accountable to Mandal Panchayat.
- vi) Since the Panchayati Raj Institutions have been constituted on party lines, it was observed that there was no harmonious relationship between the State Government and the Panchayati Raj Institution. The phenomena was observed due to the fact that the Panchayati Raj Institutions were dominated by Janta Dal and the rein of the state was in the hands of the Congress Party.
- vii) It was observed that peoples' representatives even though belonging to Janta Dal, favoured 64th Constitutional Amendment Bill.
- viii) An opinion was expressed by the peoples' representatives that in the Act itself the relationship between the peoples' representatives and district level bureaucracy should be defined.
- ix) A feeling among the peoples' representatives was observed that the functions to be transferred to the Panchayati Raj Institutions from the state list should find place in the

constitution and a Zilla Parishad Finance Commission should be constituted. They also felt that 50 per cent of financial allocation to the state should be transferred to Zilla Parishads.

- x) It was also observed that taking away of public distribution system from Panchayati Raj Institutions by the state government was not liked by peoples' representatives. As per the perception of the peoples' representatives public distribution system failed in the state due to the interference of the State Government.

## II

The perception of government officials in regard to Panchayati Raj Institutions as perceived by the Research Team are as follows:

- i) It was the observation of the Research Team that government officials had a feeling that Panchayati Raj Institutions have been given too much of power. As a result, they have gone beyond the control of the government.

The main areas of conflict between the representatives of Panchayati Raj and the district bureaucracy are: (a) transfers and postings (b) financial matters and (c) relationship between the chief secretary, Zilla Parishad and President Zilla Parishad. As per the officials' perception there was misuse of public funds by the Panchayati Raj representatives as most of the expenditures were incurred towards the T.A. and D. A. of these representatives.

- ii) It was also observed that, by and large, the district administration was in conflict with the Zilla Parishad.

However, even the government officials admitted that in some of the areas like hospitals, animal husbandry, sports etc., Panchayati Raj Institutions have played commandable role.

However, as things observed by the Research Team, the government officials wanted certain modifications which are given below:-

- a) The size of the Mandal Panchayat should be small and as such, the present size be reduced.
- b) There should be a clear cut demarcation in regard to the powers and functions of Chief Secretary Zilla Parishad and the President of Zilla Parishad.
- c) The provisions for two-third majority required for vote of no confidence in the existing Panchayati Raj Act be replaced by the word 'a simple majority'.
- d) Curtailment of powers of the President Zilla Parishad in regard to transfers and postings.
- e) The commissioner of the division concerned should have the power to suspend any resolution adopted by the Zilla Parishad.
- f) A ceiling on the TA/DA of the Panchayati Raj representatives be fixed.
- g) There should be a demarcation line in regard to the powers and functions of the local level bureaucracy and peoples' representatives and their relationship should be defined.
- h) In regard to expenditures the bureaucracy should have the final say.

- i) Lop - sided development of a particular area on political consideration should be minimized.

#### **Madhya Pradesh**

Based on the field visit of Madhya Pradesh and conversation with the government officials and the peoples' representatives, the Research Team attempted to analyse the statements of both the groups mentioned above and attempted to make its own observation which are given below:-

- i) Frequent change in Panchayati Raj Acts have been an usual phenomena in almost every state. Recently the Madhya Pradesh government has made sweeping changes in its Panchayati Raj Act which contains following provisions:-
  - a) Three tier system i.e., Gram Panchayat at village level, the Janpada Panchayat at Block level and Zilla Parishad at District level.
  - b) Provision for the Gram Sabha at the level of Patwari circle.
  - c) Gram Sabha under the Amended Act gets a new dimension.
  - d) Each Gram Panchayat be divided in not less than ten wards and each ward shall have one representative. On an average each Gram Panchayat will have twelve wards.
  - e) On an average a Gram Panchayat on the basis of population, will have three villages. If the population goes beyond 5000 there shall be a Nagar Panchayat.

- f) There is no provision for Nyaya Panchayat in the Amended Act.
- g) Provision for the reservation of seats for schedule caste and schedule tribes at all the three tiers.
- h) Provision for reservation of seats for women at all the levels by the draw of lots.
- i) Provision for elections within six months in case of supersessions of the Panchayati Raj body.
- j) Provision for levying taxes both by the State Government and Panchayati Raj Institutions. After the collection of the taxes, transfer of such revenues to the Panchayati Raj fund.
- k) Provisions for an I.A.S. Officer as an Chief Executive Officer at the Zilla Parishad level and BDO as the Chief Executive at the Janpada level.
- l) Provision for transfer of subjects by the state government to the Panchayati Raj Institutions.

However, on all these provisions a comment was made by the government officials that successful working of Panchayati Raj Institutions will, by and large, depend on the political will of the political leadership.

In the Amended Act, provisions for no confidence has been made quite difficult.

Panchayati Raj Institutions have been given three major roles to play i.e., regulatory, social-welfare and development.

Departments like agriculture, animal husbandry, fisheries, social welfare and cooperation would be under the exclusive control

of the Panchayati Raj Institutions. Within the state list there are certain concurrent provisions like irrigation, PWD, etc. which will be looked after both by state government and Panchayati Raj Institutions.

In regard to proposed Constitutional Amendment Bills certain observations which were made are as follows:-

- 1) Reservation of one-third of seats for women on Panchayati Raj Institutions was not favoured.
- 2) Detailed provision of Panchayati Raj in the constitution was also not favoured.
- 3) 64th Constitutional Amendment Bill may be treated as an attack on the federal nature of the polity.
- 4) Elections to Panchayati Raj Institutions on party line got favorable response.
- 5) Relationship between the district level bureaucracy and Panchayati Raj Representatives left a question mark.
- 6) Powers and jurisdiction of Panchayats should be clearly identified and specified in the Act.

#### **Uttar Pradesh**

Uttar Pradesh is one of the few states which introduced Panchayati Raj Institutions in the initial stages. Uttar Pradesh Act provides for three tier structure of Panchayati Raj Institutions having direct elections at Gram Panchayat level and indirect elections at Kshetra Panchayat Samiti and the Zilla Parishad level. The term of these bodies are of five years.

In regard to giving Panchayati Raj Institutions the Constitutional status, it was observed that, by and large, people

favoured it. However, the autonomy of state government may not be affected by giving them the constitutional status was the feeling of both government officials and peoples' representatives.

The idea of having a separate Election Commission for Panchayati Raj Institution was opposed and strengthening of institution of Nyaya Panchayat was favoured.

Entering political parties into election arena in their formal capacity at the level of grass-root institutions was opposed and elections without interference of political parties was favoured.

Lack of financial resources putting Panchayati Raj Institutions in a hopeless position was reflected in the comments of the peoples' representatives.

Audit of Panchayati Raj accounts by the Comptroller and Auditor General of India did not find favour. It was observed that, by and large, people were of the opinion that existing auditing state apparatus was perfectly alright.

It was disheartening to observe that Gram Sabhas were defunct and did not attract popular participation in decision-making. They also did not play any role in planning process. Rule making by the state government without consulting peoples' representatives affected the functioning of Panchayati Raj Institutions adversely.

Provision for 30% reservation of seats for women on Panchayati Raj Institutions was not liked by overwhelming majority of the peoples' representatives and government officials both. As per their perception due to the lack of education among women their effective participation could not be ensured. However, it should be a gradual process and adequate seats may be reserved for women in future keeping in view the rising consciousness among them.

It was also observed that people were of the view that state government deliberately did not want to see Panchayati Raj Institutions functioning well. The Panchayati Raj Institutions were frequently superseded on flimsy grounds.

#### **West Bengal**

West Bengal is a state where Panchayati Raj Institutions are working most successfully in comparison to other states. It may be attributed to strong party based cadre of functionaries who have played significant role in mobilising the rural population.

In regard to changes likely to be brought about through Constitutional Amendment, it was observed that, by and large, officials and peoples' representatives were of the view that such changes are not required at all as Panchayati Raj Institutions were functioning well in West Bengal. It was also observed that the people of West-Bengal had a strong feeling that Panchayati Raj Institutions in their present form could function well provided the State Governments had the will to see their success.

However, it was observed that idea of giving constitutional status to Panchayati Raj Institutions found favour from other sections who did not belong to Marxist ideology. But even those who favoured this idea were quick to point out that it should not be done at the cost of state autonomy.

The proposition of getting Panchayati Raj elections conducted through Central Election Commission did not find favour. Nor the idea of getting the Panchayati Raj accounts audited by the Comptroller and Auditor General of India was favoured.

Having direct elections of Pradhan and Chairman Zilla Parishad was opposed on the ground that it may create tension in the society.

Three tier system of Panchayati Raj Institutions was widely approved as the system was functioning very effectively.

Reservation of seats for SC/ST and women was favoured both by peoples' representatives and government officials.

Involvement of Gram Panchayats in development programmes was advocated and a suggestion was made that entire development plans and their implementation should be left at the disposal of Gram Panchayats.

None functional character of Nyaya Panchayats was an accepted fact.

On the basis of our observations of different states in regard to Panchayati Raj Institutions, in the following pages an attempt has been made to give the composite picture of all the states combined together.

#### (1) Constitutional Status to PRIs

This has been one of the most controversial issues whether constitutional status to PRIs should be conferred or not. It was found that most of the states did not favour constitutional status to PRI as it was an encroachment on the autonomy of the state. However, they accepted reluctantly that only some broad features should be defined in the Constitution and powers for working out the details should be left to the State Governments. Except for West-Bengal other states did not have objection to such an idea. West Bengal did not favour any change in its Act.

**(2) Structure**

All the states favoured the three-tier Panchayati Raj structure. But also felt that it should be left to the states to work out which model could be suitable to their states. However, in principle all the states accepted the three tier structure as best suited to the whole of the country.

**(3) Duration of Term of PRIs**

A term of five years was acceptable to all states.

**(4) Elections**

Holding of elections to Panchayati Raj Institutions has been very irregular in the state of Bihar, Uttar Pradesh and Haryana. Most of the State Governments did not favour a direct election at the village level on party lines except the state of Madhya Pradesh and West Bengal. There was a favourable response for a direct election at the other two levels i.e. Taluk/ Block and District Levels. However, a direct election at the Zilla Parishad level for the post of chairman may raise certain problems. Most of the states referred indirect election.

**(5) Reservations**

One of the provisions of 64th Amendment Bill reserving 30% seats in favour of women has come under attack in all the states. Even states like West Bengal and Gujarat were not prepared to reserve 30% seats in favour of women. However, at present only Karnataka has reserved 25% seats for women. In most of the states the favorable opinion was that at present only 10% of the seats should be reserved for women and gradually as the consciousness, among women grows, it should be increased. But in any case it

should not cross 25%. In Karnataka they felt that the present system was adequate and did not feel any need to alter the same.

There was general agreement that rotation of reserved seats or constituencies should be introduced, as reservations of seats had created vested interests.

In regard to reservation for SC/ST, it was felt that adequate provisions existed in the Acts to ensure and encourage their participation.

#### (6) Election Commission

Most of the states were against having Central Election Commission to hold Panchayati Raj elections. Only West Bengal had no objection in case it was decided as such. Other states agreed that the existing state machinery was adequate enough to hold free and fair elections. States like Gujarat and West Bengal reflected that holding elections regularly was enough to prove the soundness of the existing election machinery in their state.

#### (7) Finance Commission

It was felt that a Finance Commission under central supervision may increase centralisation of authority and weakening of the state power. As such no state was in favour of a Finance Commission under the Central Government. The general opinion was that control over the money to Panchayats should be vested in the State Government. However, every state preferred to have a Panchayati Raj Finance Commission at the state level.

#### (8) Audit by CAG

This is another provision under the proposed Bill with which no State Government agreed. It was felt that since there was already a provision under the existing State Act to audit the accounts, there

was no need for any central authority to audit the Panchayati Raj accounts. It would amount to encroaching over the State autonomy.

#### (9) Bureaucracy Vs Elected Representatives

The Research Team was constrained to find that in all most all the states, ofcourse to a lesser extent in the states of Karnataka, Andhra Pradesh and Gujarat, the Panchayati Raj Institutions were under the control of the Bureaucracy. In States like Karnataka the bureaucracy felt that too much of power had been given to the Panchayat Raj Institutions and it has been misused.

There has been a love hate relationship between the elected representatives and the burcaucracy. The tension and the conflict was visible in states like Karnataka and Gujarat. There has been an ego tussle between them and each tried to interpret the Act according to its power and status.

Most of the bureaucrats, the Team met, accepted in all frankness that this tussle has been going on for the last few years, and that in some cases it has affected the working of the Panchayati Raj Institutions itself. Most of the bureaucrats particularly at the lower and the middle level felt that the powers of the elected representatives should be curtailed. They did not cherish the idea of working under the Panchayati Raj representatives.

The Team noted that it was simply a tussle for power and control of the Panchayati Raj Institutions between the officials and non-officials.

#### (10) Suspension and supercession

This power has been grossly misused in states like Bihar, Haryana and Uttar Pradesh and rarely used in states like Gujarat and

West Bengal, where these institutions have taken a firm root. Most of the states were of the opinion that the power to suspend or supersede should be vested with the State Government. Most of the states felt that a period of six months for by election to a superseded Panchayat was not practicable, it should be a minimum of one year, so that necessary arrangements could be made to hold the elections.

(11) Comparison between 64th & 74th Constitutional Amendment Bills

To some states the provisions of the 74th Amendment Bill were more acceptable as they felt that the 74th Amendment had conferred greater flexibility in dealing with the relationship between the Centre and State on the one hand and between State and the Panchayati Raj Institutions on the other. They felt that the 64th Amendment Bill bye-passes the states in matters relating to Panchayati Raj Institutions. However, there were some states, including Karnataka which preferred 64th Amendment Bill with a suggestion that the word Governor be replaced by the word State Government in the Bill.

## CHAPTER - VI

### RECOMMENDATIONS

Based on the thorough review of latest Panchayati Raj Acts of the select states and proposed Constitutional Amendment Bills in regard to Panchayati Raj Institutions as also our personal observations and conversation with government officials and peoples' representatives, in the present chapter an attempt has been made to recommend certain measures which may be considered by the Government of India, while chalking out the future strategy for revitalising Panchayati Raj Institutions.

The recommendations have been put in three parts. Part-I relates to the changes required to be made in individual select states. Part II presents a composite view which may be applicable in case of all the States and Union Territories of the Republic of India. Similarly Part III relates to a new approach to Panchayati Raj Institutions proposed by the Research Team for the consideration of Government of India.

### PART - I

#### RECOMMENDATIONS FOR INDIVIDUAL STATES

##### Andhra Pradesh

1. For the conduct of regular elections to the Panchayati Raj bodies an Election Commission should be constituted.
2. The role and importance of the Gram Sabha should be emphasised and one of the major powers that could be given to them is that of identification of the beneficiaries of various development programmes.

3. For proper distribution of finances and adequate devolution of financial resources, a Finance Commission should be set up at the state level.
4. It has been felt that the existing Mandals were very large in size and they are not really effective in taking the administration closer to the people. Hence the size of the Mandal should be reduced.
5. In case of reconstitution of Panchayati Raj Institutions the term extendable by three years needs to be amended and the maximum limit should not exceed beyond six months.

#### **Bihar**

1. The Panchayati Raj Act of Bihar is one of the most comprehensive Acts having certain well meaning features. Bihar has been the first state to amend its Act and to incorporate the basic provisions of the Sixty Fourth Amendment Bill. However, inspite of these facts Panchayati Raj Institutions in Bihar have been very weak both institutionally and financially.
2. Elections to Panchayati Raj Institutions have been very irregular. This may be one of the reasons of its being existing only on papers. The elections to Gram Panchayats and Panchayat Samities could not be held since 1978 and Zilla Parishads are superseded since 1982. Recently when the Patna High Court directed the State Government to hold elections, the Government issued an ordinance to nullify the orders of the High Court.

Nullification of judicial order by the Executive or Executive Legislation is in no way manifestation of the working of a healthy democracy. Mutual respect and co-operative spirit in the major Constitutional instrumentalities are essential for Constitutional democracy to operate effectively and efficiently.

3. Financially these institutions are in a very bad shape as they have no resources of their own and State Government too have not taken any step to improve their financial position.
4. As the Panchayati Raj Institutions have been either superseded or elections could not be held for a long time, people in general have lost faith in these institutions. One of the mechanism through which people's faith in these institutions could be restored was to strictly and honestly follow the provisions of the Act in its letter and spirit.
5. What was needed in Bihar was not changes or amendments in the Act but the political will to implement the provisions of the Acts. Elimination of vested interests at the grass-roots should be the next step.

#### **Haryana**

1. The nomenclature of both the Village Panchayat and the Panchayat Samiti and Zilla Parishad Acts should be changed and Haryana should have its own Panchayati Raj Act.
2. At the present moment Haryana has two-tier Panchayati Raj structure. The Zilla Parishad was abolished in 1976. For a better coordination and greater representation of the people's representatives the Zilla Parishad should be revived. This may also help in plan formulation and its implementation.

3. As there is no Zilla Parishad the government and the bureaucracy have acquired most of the powers and functions that were the spheres of the Zilla Parishads. This has to be checked, and certain powers should be transferred to Panchayat Samities and Village Panchayats.
4. There is no specified audit of accounts mechanism in the Gram Panchayat Act. The Act should be amended and necessary changes should be incorporated.
5. The Act does not provide for the constitution of the Gram Sabha which has a vital role to play. Gram Sabha should be recognised as the basic unit at the village level. Its powers and functions should be clearly defined.
6. To conduct and supervise elections, it would be advisable to constitute an Election Commission and for better distribution and mobilisation of finances a Finance Commission should be set up. This should be brought under the Act by necessary amendment.
7. The Haryana Government may exercise its mind and in consultation with the peoples' representatives may prepare a comprehensive Act for all the three tiers i.e. Gram Panchayat, Panchayat Samiti and Zilla Parishad.

#### Gujarat

1. The revenue collection task should be assigned to Gram Panchayats and Provision should be made for Panchayati Raj Institutions to augment their own resources.
2. Though in Gujarat the Zilla Parishad is actively associated with district plan formulation, the Gram Panchayats play

insignificant role in plan formulation. Provision should be made in the Act to get active participation of Gram Panchayats in plan formulation.

3. It has been observed that in absence of a clear cut provision in regard to the relationship between the District Development Officer and Chairman, Zilla Panchayat, both have been at daggersdrawn. There should be a clear demarcation of powers and functions of these two functionaries in the Act.

#### Karnataka

1. Though the Mandal Panchayats have been assigned enormous functions, their command over resources is very limited. More resources both financial and material should be provided to the Mandal Panchayats.
2. In absence of sufficient funds the Mandal Panchayats have not done constructive work in villages to attract the attention of general masses. It has left its impact on the meetings of Gram Sabha. In absence of development works taken up at the village level the Gram Sabhas are also helpless in chalking out development plans for the village. Provision in the Act should be made for special funds for Gram Panchayats.
3. Suitable changes should be made in the Act to define and describe in clear cut terms the powers and functions of the Chief Secretary and the Chairman, Zilla Parishad. In case of transfers and postings of teachers and employees of Panchayati Raj some clear cut provisions should be made in the Act.

4. Some of the functions presently performed by the Zilla Parishads may be transferred to Mandal Panchayats along with transfer of resources.
5. The role and importance of the MLAs at the Taluk Level should be decreased. Even at the Zilla Parishads meetings MPs, MLAs, MLCs should not be allowed to influence the decisions adversely.
6. The Act has an elaborate and exhaustive chapter dealing with Nyaya Panchayats. It is high time that this provision of the Act should also be implemented without waiting for five years to dispense cheap and speedy justice at the grass root level.
7. To conduct and supervise Panchayati Raj elections, the Act should be amended so as to constitute an Election Commission.

#### **Madhya Pradesh**

1. The Act provides for direct elections at all the three levels on party basis. But this should be discontinued at the level of village Panchayat.
2. The newly amended Act has no provision for a Finance Commission. As such for proper regulation of funds some financial institution should be created. It may be suggested that on the lines of Constitutional Amendment Bills, a Finance Commission may be set up.
3. For the conduct of elections the Act should provide for the setting up of an Election Commission. The present Act is the brain child of the B.J.P. Government and yet to be implemented. The impact and success of the provisions could be assessed only when they are put to the test.

## Uttar Pradesh

1. In Uttar Pradesh the Panchayats are financially very weak. In order to ensure regular flow of funds and their proper distribution a Finance Commission should be constituted.
2. In order to supervise and conduct elections, a separate Election Commission for Panchayati Raj should be constituted.
3. Provisions should be made in the Act for Certain percentage of seats reserved for women.
4. To make Gram Panchayats effective in Uttar Pradesh for 4000 population there should be a Gram Panchayat. 5. The Gram Sabha should be activated and people should be encouraged to take part in its meetings. Date of regular meetings of Gram Sabha should be notified well in advance.
6. Nyaya Panchayats are dormant, they should be activated.
7. Rule making power of the government should be democratised by way of involvement of the various interest groups.
8. At the present moment there is no involvement of Gram Panchayats in planning process. In the Act suitable amendment should be made to involve Gram Panchayats in planning process.
9. The powers and functions of the Zilla Parishad and the Kshettra Samiti should be curtailed and some of those powers should be transferred to the Village Panchayats along with funds.
10. Financially too the Village Panchayats are very weak and are not able to perform even minimum functions required by them. Measures should be taken for resource mobilisation for Gram Panchayats.

### West Bengal

1. Even though elections in West Bengal have been held regularly yet for better coordination and efficiency a separate Election Commission should be constituted for holding P.R.Is elections.
2. The Gram Panchayats lack in financial resources. Attempts should be made to mobilise resources for Gram Panchayats to enable them to take up development works.
3. Nyaya Panchayats should be activated and peoples' faith in these institutions should be restored by way of suitable amendment in the Act.
4. Certain percentage of seats should be reserved for women candidates in the Act.
5. Reservation to SC/ST needs a change and should be based on rotation of constituencies.
6. In matters pertaining to rule making the views of the panchayati Raj Institutions should be taken into account.
7. Certain changes are required in the planning process so that the Gram Panchayats can become more powerful.
8. The provision of section 207 of the Act dealing with transfer of Institutions, schemes alongwith funds and manpower to the Panchayats should be enforced without further delay.

Finally, it may be suggested that for proper and effective functioning of Panchayati Raj no doubt good legislative provisions - well thought of, free from ambiguity and with post legislative audit scheme, are not only desirable but a *sine qua non*. But what is needed most is the political commitment and conviction, administrative sensitivity and sense of service, judicial activism and creativity and over and above all,

peoples' involvement both mental and physical are some of the prerequisites for the successful working of Panchayati Raj Institutions.

## PART - II

### GENERAL RECOMMENDATIONS

#### 1. Constitutional Status to PRI

Based on our findings of the study, we feel that Constitutional status should be conferred to PRIs as this may provide an uniform model for the whole of the country. a uniform structure with clearcut provision for powers and functions and other details may strengthen Panchayati Raj Institutions. However, finalising the modalities of their working may be left to the respective State Governments.

#### 2. Gram Sabha

For the success of Panchayati Raj Institutions peoples' faith and participation in these institutions must be ensured. We suggest that to ensure peoples' participation, the Gram Sabha should be institutionalised and given more powers both in respect of planning and implementation. The Gram Sabha must be recognised as the basic unit at the village level and for this purpose certain guide lines should be evolved for Gram Panchayat to ensure the success of Gram Sabha. For example, method of reward and punishment to the members of Gram Panchayats be introduced. A Gram Panchayat having succeeded in ensuring regular and successful meetings of Gram Sabha may be rewarded by Panchayat Samiti/Mandal Panchayat. Similarly the Gram Panchayats which fail in doing so may be superseded and a

new Gram Panchayat may be constituted within six months. At least four meetings of Gram Sabha in a year must be ensured.

### 3. Structure

For efficient and effective functioning of Panchayati Raj Institutions, we recommend a three tier structure. However, some flexibility may be provided and the states may be given some latitude to consider the tier system as per the suitability of the State.

The Gram Panchayat should be the hub of all development activities with a supervisory and monitoring role to Panchayat Samiti/Mandal Panchayat. The Zilla Parishad may play a guiding role and basically be a planning and fund raising organisation for village development plan.

### 4. Election Commission

One of the major drawbacks of PRI, is that election to these bodies, in most of the states, has been very irregular. To ensure regular elections, we suggest that the elections to these bodies should be conducted and supervised by the Election Commission specially constituted for Panchayati Raj Institutions. If such mandatory provisions are made, on their violation, even the court can interfere in the matter as has recently been done by the Patna High Court. It was possible for the court only because such mandatory provisions exist in the amended Act of Bihar. We strongly feel that unless and until elections become a regular feature the Panchayati Raj Institutions will not take firm roots.

#### 5. Reservation of Seats for Women

All the States' Panchayati Raj Acts provide for reservations of seats for women, of course, the percentage varies. Only Karnataka Act provides for 25% reservation of seats for women. We feel that any reservation to the tune of 25%, 30% or even 1/3 of the total seats may not attract and ensure women's participation. In order to check the growth of vested interests, reservations should be done in phased manner and sincere efforts should be made to educate the women about the need for their active participation in the activities of Panchayati Raj Institutions. We recommend 15% reservation of seats in the first stage and subsequently to 20% and further to a maximum of 30% after a period of 10 years. In the meanwhile study or survey should be conducted to assess the extent and degree of participation of women in PRIs. Depending upon the results of the survey, so conducted, reservations of seats can be abolished or retained or enhanced for future.

#### 6. Finance Commission

It is a known fact that in most of the States Panchayati Raj Institutions have been starving of funds. Without adequate financial guarantee and support no meaningful development schemes can be initiated by these institutions. One of the usual complaints is that the state governments do not give adequate funds to the Panchayati Raj Institutions. We suggest that each State Government should constitute a Finance Commission for Panchayati Raj which should guarantee the allocation of resources (finances) to these institutions. It is also recommended that from the state budget fifty percent of

the funds allocated for development activities be transferred to the Panchayati Raj Institutions.

**7. Rule Making Process**

We observed that in all the states, except Gujarat, the Panchayati Raj representatives do not play any role in rule making inspite of the fact that they are directly affected by these rules. We feel that any rule so framed should be done in consultation with the Panchayati Raj representatives of the respective states. Alternatively, on the patterns of Gujarat Panchayat Parishad every State should have such type of a voluntary organisation which may take care of rule making in consultation with the respective State governments.

**8. Mode of Elections**

Of late, there had been a lot of controversy in regard to the mode of elections to the office bearers of Panchayati Raj Institutions. We recommend direct elections at the village and intermediate level and indirect election at the Zilla Parishad level. Any direct election at the Zilla Parishad level may not be politically suitable. On the question of involvement of political parties in Panchayat Raj elections, we feel that this will further divide the rural society. The political parties should not be allowed to participate in Panchayati Raj elections. This may ensure the growth of a homogeneous rural society based on mutual cooperation and effective participation of the villagers.

#### 9. Development Schemes

All development schemes along with funds and manpower should be transferred to the Panchayati Raj Institutions by the State government on the patterns of West Bengal, Gujarat, Karnataka and Madhya Pradesh.

#### 10. Nyaya Panchayats

Perhaps under the existing Acts of all the states the institution of administration of justice i.e. Nyaya Panchayats have suffered the most. In all the eight states covered under the study the institution of Nyaya Panchayat is only a legislative and decorative institution. This institution can play a very useful role if developed in true sense. Petty cases and especially cases relating to atrocities on weaker sections of the society may be entrusted to Nyaya Panchayats. We suggest that measures should be initiated to revive these centres of administration of justice at the village level. In a small way it will help settle petty disputes and will increase the cooperative spirit among the people and finally faith in the justice delivery system.

#### 11. Relationship between Bureaucracy and Panchayati Raj Representatives

In states like Karnataka, Gujarat, and Andhra Pradesh the Panchayati Raj Institutions have taken roots to some extent. However, a visible distrust existed between the bureaucracy and Panchayati Raj representatives. We suggest that functions and powers of both should be defined clearly in the Act. Efforts should also be made to ensure coordination between them and a sense of superiority or inferiority should not be allowed to

develop. An workable and amicable relationship should be ensured. Both should be made to realise that they have to work for the people's welfare and they are duty bound to serve the cause of people.

#### 12 Audit of Panchayat Raj Accounts

All the state Acts have adequate provisions for the Audit of Panchayati Raj accounts, we suggest that the existing mechanism should be retained. Any central intervention may only complicate the problem and lead to delay in the audit of accounts. It may be misunderstood as an interference by the centre in the affairs of the state.

#### 13. Suspension of Members/Supersession of PRIs

We strongly feel that for suspending any elected member of Panchayati Raj Institutions the grounds stipulated under the respective Acts must be taken into account. Before initiating the action of suspension the principles of fairness should be followed. The final order of suspension should be supported by elaborate reasons. This is essential to avoid arbitrariness.

In regard to supersession of Panchayati Raj bodies we suggest that in the case of Village Panchayat and the Intermediate Panchayat the power to supersede should vest with the Zilla Parishad and in case of Zilla Parishad the State Government may exercise this power. However due procedure should be adopted before action being taken.

#### 14 Reconstitution of Superseded PRIs

We recommend that in the case of superseded/dissolved bodies, election to reconstitute such bodies be held within a period of six months. Under no circumstances this period should be

extended. The term of such reconstituted Panchayati Raj Institutions should be for the same period as the institution would have in normal course.

#### 15 Panchayati Raj Bureaucracy

We are of the view that in order to strengthen the working of Panchayati Raj Institutions adequate man power is needed. For staff to be employed, the PRIs at the present moment depend on the state governments. To enable them to function efficiently a separate cadre of Panchayati Raj Bureaucracy, particularly for class III and IV employees, should be created, who may directly be appointed and controlled by the Panchayati Raj Institutions.

#### 16. Salaries to PRIs Representatives

The Panchayati Raj Acts of Karnataka and Andhra Pradesh provide for salaries to be paid to the Panchayati Raj representatives, based on these provisions, other states should make suitable amendments in their Acts to incorporate these provisions.

### PART -III

#### EXPERIMENTAL MODEL

The above mentioned recommendations have been made in the context of existing three tier/two-tier model of Panchayati Raj Institutions. In succeeding pages attempt is being made to suggest entirely a different model i.e. One-Tier model for the consideration of the government as to whether it will prove to be workable.

For the proposed model, inspiration has been drawn from part IV of the constitution i.e. 'Directive Principles of State Policy. The

constitutional directive under Article 40 of the constitution states that "the State shall take steps to organise Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government".

Here it may be pointed out that the founding fathers of the Constitution were more concerned about the homogeneous character of our rural society and to change the face of rural India through community efforts based on mutual trust and cooperation. The creation of Village Panchayats might have got its inspiration from the Sriniketan experiment (1921) of Sri Ravindra Nath Tagore and what Mahatma Gandhi propagated during freedom movement and Dandi march.

We are proposing the one Tier-Model particularly restricting ourselves to the provisions of Article 40 of the Constitution which provides only for the creation of 'Village Panchayats'. The Institutional framework proposed for one tier system i.e., Gram Panchayat may be as follows:

- (i) The Gram Sabha should be the general body of the Gram Panchayat, consisting of all the adults residing within its area.
- (ii) It should have minimum two meetings in a year. In the annual meeting it should pass the Gram Panchayat budget and review its accounts of the last year at its half yearly meeting. It may have two more ordinary meetings in a year.

- (iii) It should prepare the development plan of the village in its annual meeting and monitor the implementation of development programmes in half yearly and quarterly meetings.
- (iv) One fourth of the total adult members should constitute the quorum for the meeting of the Gram Sabha.
- (v) For general villages a population of 2500 and for Scheduled Tribe Villages a population of 1500 may be required to constitute a Gram Panchayat.
- (vi) Gram Sabha may be treated as the legislative wing of the Gram Panchayat.
- (vii) It should have power to levy taxes to augment the resources of Gram Panchayat.
- (viii) There should be Gram Panchayat Executive Committee of not less than 10 members.
- (ix) These members should be directly elected by adult members of the Village for which every Gram Panchayat should be divided into 5 wards and each ward may elect two members as its representatives on the village executive.
- (x) All the ten members may elect a Sarpancha/Mukhiya from amongst them.
- (xi) The term of the executive committee should be of five years.
- (xii) Executive Committee should act basically as implementing agency of the decisions taken by the Gram Sabha. It should also implement all the development programmes for the village on behalf of Gram Sabha.

- (xiii) The executive should meet at least once a month and should be expected to give direction to the collective efforts and to operate as an agency of Gram Panchayat.
- (xiv) Mukhiya/Sarpancha may be treated as first among the equals and may be removed by the majority of two third members of the village executive on the basis of charges established against him.
- (xv) Village executive may have different sub-committees headed by a member of the executive committee to look after a particular function.
- (xvi) There should be a judicial wing of Gram Panchayat which may be called Gram Katchery or village judiciary. It should be an integral part of Gram Panchayat. It is suffice to call it village court.
- (xvii) It should consist of ten elected Panchas two from each ward for a term of five years.
- (xviii) A chairperson may be appointed, who may probably be a retired judicial magistrate and may be paid some salary.
- (xix) The village court may look into some minor cases like burglary, Cattle theft, crop theft, encroachment and mutation cases.
- (xx) There may be provision for appeal in the sub-divisional Court against the judgement of village Court.
- (xxi) There should be a Gram Raksha Dal or village volunteer Force. All the willing adult villagers may join this force and it may be headed by a Dalpati (chief officer). The Dalpati may be paid some salary.

- (xxii) The basic duty of village voluntary force should be to take care of safety of life and property of villagers. And it should be given some police power.
- (xxiii) All the development functions may be transferred to village panchayat.
- (xxiv) To activate Gram Sabha, cooperative societies or groups of small farmers, artisans, and different interest groups may be constituted in following manner to mobilize the rural masses.

(a) **Benefit Generating Development Activities**

Mobilisation has to be around economic and social activities, participation in which gives the poor a hope of gaining more material benefits for themselves. Therefore, group should be formed around productive activities.

(b) **Homogeneity of Group**

The groups should be formed in such a way that they must be homogeneous in socio-economic terms. It is because the same economic and social strata have common concern and should discuss it freely from a common platform. Even if the groups are functionally organised, such as artisans groups or poultry farmer's groups, the criterion of homogeneity in group membership would apply; otherwise such groups are likely to be dominated by a few rich and powerful members.

(c) **Membership and Size**

In the formation of these groups there should not be any pressure from outside. They should be left free to choose their own groups. And thus only those who could work together, may join together to form small groups. This may bring about greater cohesiveness and durability of groups. The membership in that group would be in the range of 15 to 30. Bigger groups should be discouraged as these may not prove conducive to the groups cohesiveness.

(d) **Multifunctional Character**

Groups should not be unifunctional rather they should be multi-functional in scope. In other words, the members of the groups should be involved in more than one productive activity. Small farmers, tenants and landless agricultural labourers are normally engaged in a mixed farming system where they grow food and cash crops and rear a few domestic animals and poultry and engage in small scale cottage industries or any other off-farm employment activities. Therefore, in view of the diversified interests of its members, a group should be concerned with almost all the activities in which its members have interests.

(e) **Regular Meeting**

Groups should hold regular meetings at least once in a fortnight to review progress of their on-going activities and also to review their plans for the future.

(f) **Group Savings**

A group saving scheme is an important aspect of group activities. It should be made compulsory that every member of group should contribute in a sharing fund regularly. The money shared should be used for advancing loans to needy members to meet their emergency and subsistence needs, thereby reducing their dependence on moneylenders or landlords. Resources of the sharing fund may also be used for expanding group activities.

(g) **Group Organizers**

People should not organise into groups unless they are talked to and convinced of the benefits to be derived from membership in groups. For this purpose, a group organizer is required. Group organizers should be energetic and motivated to work with disadvantaged and the poor. Group organizers must be willing to mix with the poor and so live with them. They must conduct socio-economic household surveys to identify people of similar status and interests for organising them into small homogeneous groups.

(h) **Group Leaders**

A group leader is to be selected from amongst the members of the group by consensus. Other members may also be assigned different responsibilities. Thus everybody may share the work of the group.

(i) Credit

As groups are organised around productive activities, the need for credit arises. Banking institutions should advance credit to members of small groups not on the basis of collateral but on the basis of collective guarantee of the group concerned. Alternatively, total land assets of all the members of a group may be used as collateral for loans to individual members for the purposes approved by the group concerned. Similarly collective loans may also be secured for collective and joint projects to be undertaken by groups.

(j) Associations

As several small groups are formed and as they are involved in several activities, it could be useful to share their experience to learn from each other's mistakes and success. Several small groups in a village or an area, therefore, may be federated into an association which can occasionally meet and discuss common problems of member groups. Such associations can also undertake, on behalf of their member groups, joint marketing of their products and procurement of inputs with a view to taking advantage of the economy of sale in production.

(k) Interest Group Cooperative

The association can then grow into a cooperative society fully controlled by the various interest groups. The board of directors of the Cooperative Society may be elected by representatives of its member groups or may be

composed of group leaders serving on the board for a fixed term on rotational basis.

The formation of the association and its transformation into a cooperative society must not be hastened or forced in a structural or bureaucratic manner. The higher institutions should be allowed to gradually develop through the small groups. It is the smaller groups that are the most important and need to be the most viable institutional forums for mobilization of the poor, as evidenced by experience with small farmer and artisan development projects carried out in the country.

This frame-work for group organization is suggested because of the fact that rural masses do not visualise any benefit from Panchayati Raj Institutions at the present moment. If this framework is experimented and the masses get benefited from such organizations, they will start taking keen interest in Gram Panchayats' activities and in the course of the time the Gram Sabhas will automatically become the most active institutions of grassroot democracy. This will also help in building a homogeneous rural society based on common interests. Every individual will feel himself as the part of the system and the system will serve the general problems of the common masses on a commonly agreed programme.

When such type of Gram Panchayats are created for a village, the District Administration should take care of flow of funds for development works taken up by the Gram Panchayats. For this matter the District Administration may have two different administrative

set up top from the District to Village Level i.e. Revenue Administration and Development Administration.

For Development Administration there should be separate organizations like DRDA and the Law and Order and Revenue Administration should be under the control of District Magistrate. At the Block level too the development activities may be taken care of by the B.D.O. and Law and Order and revenue administration may be under the supervision of circle officer.

It this model clicks and the Gram Panchayats and Gram Sabhas start functioning in right direction, in the gradual course of the time, we may think in terms of adopting three-tier model of Panchayati Raj Institutions.

## APPENDIX

PAANCHAYATI RAJ IN SELECT STATES AT A GLANCE

Appendix- I

S.L. NAME OF THE NO. STATE	NAME OF THE ACT	TIER SYSTEM	OFFICE BEARER	MODE OF ELECTION	TERM OF OFFICE	JUDICIAL BODY	GOVT. FUNCTIONARY
1	2	3	4	5	6	7	8
1. ANDHRA PRADESH	1. A.P. Panchayats Act 1964	1. Gram Panchayat	Sarpanch/Up-Sarpanch	Direct	Five Years	Nyaya Panchayat	
	2. A.P. Mandala Praja Parishad and Zilla Praja Parishads Act 1986	2. Mandala Praja Parishad 3. Zilla Praja Parishad	President/Vice President Chairman/Vice Chairman	Indirect Indirect	- do - - do -		Mandal Development Officer District Development Officer
2. BIHAR	1. Bihar Panchayat Raj Act 1947	1. Gram Panchayat	Mukhiya/Up-Mukhiya	Direct	Five Years	Gram Kutcherry	Panchayat Sevak
	2. Bihar Panchayat Samitis and Zilla Parishad Act 1961	2. Panchayat Samitis 3. Zilla Parishad	Pramukh/Up-Pramukh Adhyaksha/Up-Adhyaksha	Indirect - do -	Five Years Five Years		Block Development Officer District Development Officer
3. GUJARAT	Gujarat Panchayats Act 1961	1. Gram Panchayat 2. Nagar Panchayat 3. Taluk Panchayat 4. District Panchayat	Sarpanch/Up-Sarpanch Chairman/Vice Chairman President/Vice President	Direct Indirect Indirect Indirect	Five Years Five Years - do - - do -	Nyaya Panchayat	Secretary Secretary, Taluka Dev. Officer Dist. Dev. Officer
4. HARYANA	1. Punjab Gram Panchayat Act 1952	1. Gram Panchayat	Sarpanch/Up-Sarpanch	Direct	Five Years	Adalati Panchayat	Secretary
	2. Punjab Panchayat Samitis and Zilla Parishad Act 1961	2. Panchayat Samitis	Chairman/Vice-Chairman	Indirect	Five Years		Block Development Officer
5. KARNATAKA	1. Karnataka Zilla Parishads, Taluk Panchayats Samitis, Mandal Panchayats and Nyay Panchayats Act 1983	1. Mandal Panchayat 2. Taluk Panchayat 3. Zilla Parishads	Pradhan/Up-Pradhan Chairman/Up-Chairman Adhikshya/Up-Adhikshya	Direct - do - - do -	Five Years - do - - do -	Nyaya Panchayat	Chief Secretary
6. MADHYA PRADESH	1. M.P. Panchayat Raj Act 1990	1. Gram Panchayat 2. Janapada Panchayat 3. Zilla Panchayat	Sarpanch/Up-Sarpanch President/Vice President Zilla Pradhan/Zill Up-Pradhan	Direct - do - - do -	Five Years - do - - do -	Conciliation Board	Secretary Chief Ex. Officer Secretary
7. UTTAR PRADESH	1. UP Panchayat Raj Act 1947	1. Gaon Panchayat	Pradhan/Up-Pradhan	Direct	Five Years	Nyaya Panchayat	Secretary
	2. UP Kshettra Samitis and Zilla Parishad Act 1961	2. Kshettra Samitis 3. Zilla Parishad	Pramukh/Up-Pramukh Adhyaksha/Up-Adhyaksha	Indirect Indirect	- do - - do -		Khand Vikas Adhikari Mukhiya Adhikari
8. WEST BENGAL	1. West Bengal Panchayat Act 1973	1. Gram Panchayat 2. Panchayat Samitis 3. Zilla Parishads	Pradhan/Up-Pradhan Sahapati/Sahkari Sabadhipati/Sahkari	Direct Indirect Indirect	Four Years Four Years Four Years	Nyaya Panchayat	Secretary B.D.O. Executive Officer

STATE	FUND	RESERVATION	ELECTION COMMISSION	GOVERNMENT POWER	FINANCE COMMISSION	FINANCIAL POWER	BUDGET	DEFECTION LAW	MEETING	FUNCTION
	9	10	11	12	13	14	15	16	17	18
A.P.	1. Gram Panchayat Fund 2. Mandala Praja Parishad Fund 3. Zilla Praja Parishad Fund	SC/ST Women & B.C.	-	To Suspend and dissolve, Cancel any resolution, Rule Making	-	Taxes and fees; for water lighting, markets, festival or, Development Planning Revenue Collection	Annual	Defection Law	Twice in a Year	Agriculture, Health, Sanitation Animal husbandry, Maintenance of road, lights, wells, Ponds, Planning Development, Education, Cottage Industries
BIH.	1. Gram Panchayat Fund 2. Panchayat Samiti Fund 3. Zilla Parishad Fund	SC/ST 30% for Women	Election Commission	- do -	Finance Commission	- do -	Annual	-	Twice Annually Quorum 1/8th	As above
GUJ.	1. Gram Fund 2. Nagar Fund 3. Taluka Fund 4. District Fund	SC/ST and Women	-	- do -	-	- do -	Annual	-	Twice Annually	- do -
HAR.	1. Gram Sabha Fund 2. Panchayat Samiti Fund 3. Zilla Parishad Fund	- do -	-	- do -	-	- do -	Annual	-	Once a month Quorum 1/5th	- do -
M.P.	1. Panchayat Fund 2. Janapada Panchayat Fund 3. Zilla Panchayat Fund	- do -	-	- do -	-	- do -	Annual	Defection Law	Once a month Quorum 1/2	- do -
KAR.	1. Mandal Panchayat Fund 2. Taluk Panchayat Samitis Fund 3. Zilla Parishad Fund	SC/ST 25% for Women + BC	-	- do -	Finance Commission	- do -	Annual	- do -	Twice in a year Quorum 1/3rd	- do -
U.P.	1. Gaon Fund 2. Kshettra Nidhi 3. Zilla Nidhi	SC/ST and Women	-	- do -	-	- do -	Annual	-	Twice in a year Quorum 1/5th	- do -
W.B.	1. Gram Panchayat Fund 2. Panchayat Samiti Fund 3. Zilla Parishad Fund	- do -	-	- do -	-	- do -	Annual	-	Once a month Quorum 1/4th	- do -

## Appendix - II

## SCHEDULE-I: PANCHAYATI RAJ REPRESENTATIVE

Date: \_\_\_\_\_

Name \_\_\_\_\_ Caste \_\_\_\_\_

Education \_\_\_\_\_ Post held \_\_\_\_\_

Experience \_\_\_\_\_ Age \_\_\_\_\_

1. (a) Have you any idea of 64th Constitutional Amendment Bill?

Yes/No

(b) If yes, please state the basic features

(c) What were the reasons behind introducing the Constitutional Amendment Bill?

2. (a) Being People's Representative do you feel that Panchayati Raj Act of your state is satisfactory?

Yes/No

(b) If no, what are the short-comings? Please indicate in the space given below:

1.

2.

3.

4.

5.

3. Your opinion is sought on following points to make the Panchayati Raj Institutions more effective.

i) Election

ii) Powers and Function

iii) Finance

iv) Supersession

v) Rule Making

4. (a) Do you feel that Panchayati Raj Rules, issued by State Secretariat from time to time, make the Panchayati Raj Act ineffective?

Yes/No.

- (b) If yes, have you any suggestion to make to remove such enomalias?

5. What is your opinion on the requirement of pre-publication of Rules in the draft form?

6. (a) People's participation in the Rule making process is essential for the effective implementation. Do you agree to this statement?

Yes/No

- (b) If yes, would you suggest methods to ensure people's participation?

7. What is your opinion on the requirement of laying the Rules on the table of the House.

8. Effective people's participation is "Sin-qua-non" of Panchayati Raj. Would you suggest, how people's participation can be ensured?

9. (a) Do you feel that entire Development Programmes should be left in the hands of Panchayati Raj Institutes?

Yes/No

- (b) If yes, what mode would you like to suggest for implementatioin of Rural Development Programmes?

10. (a) Do you feel that local level bureaucracy is responsible for making Panchayati Raj Institutions ineffective?

Yes/No

- (b) If yes, what remedies would you like to suggest?

11. Do you feel that political parties be allowed to enter into Panchayati Raj elections in their formal capacity?

Yes/No

12. Would you like to prefer direct/indirect elections for Panchayati Raj bodies?

13. What type of taxes would you like to suggest to be levied by PRIs to mobilise their own resources? Please list them.

1.

2.

3.

4.

5.

14. Based upon your long experience, could you suggest any thing more to be incorporated in Panchayati Raj Act of your state?

15. What coordination mechanism would you like to suggest for different tiers of Panchayati Raj Institutions?

16. What co-ordination mechanism would you have to suggest for District Administration and Panchayati Raj Administration?

17. What is your impression of holding Panchayati Raj Elections through Election Commission?

18. (a) Whether provision for Finance Commission will improve the finance of Panchayati Raj Institutions?

Yes/No

- (b) If yes, in what manner?

19. (a) Do you have any idea about the Panchayati Raj Institution functioning in other States?

Yes/No

- (b) If yes, which State's Panchayati Raj model has impressed you most?

20. What types of Administrative Control would you like to suggest for Panchayati Raj Institutions?

21. Whether you would like to have Panchayati Raj under concurrent list of the Constitutions?

22. Whether you apprehend that the proposed amendment in the constitution relating to Panchayati Raj, if passed, will infringe upon the states autonomy?

23. Whether you would like to recommend salaries to the Panchayati Raj Representatives?

Yes/No

24. What is your opinion on the following:-

(a) Main functions of Gram Sabha.

(b) Qualification for the members of Gram Sabha.

25. Based on your experience would you like to have the Sarpanch and Pradhan as the tutelar head of respective organisations?

Yes/No

26. What is your overall assessment of the functioning of Gram Sabha?
27. Do you believe that it is imperative that Gram Sabha should be developed as the strong base of the Panchaati Raj Movement and the problems projected are largely imaginary and could be easily overcome?

Yes/No

28. Some of the items relating to powers of P.R. Institutions are given below. We would like to obtain your views on them as to which items should be given to Gram Panchayats and which one to Panchayat Samitis/Mandal Panchayats.
- (a) Financial powers - powers for preparing and passing budget, levying taxes, etc.
  - (b) Local problems of revenue, forest, etc.
  - (c) Developmental functions including education etc.
  - (d) Civic functions
  - (e) Administrative functions.
29. What type of relationship you would like to have between Zilla Parishad and Panchayat Samiti on one hand and Panchayat Samiti and Gram Panchayat on the other. Please also suggest a Channel of Communication between them.
30. What could be the size of the Gram Sabha which many prove to be functional and action oriented?
31. What should be the duration of the office of the members of Panchayati Raj Institutions?
- (i) Should it be longer than the duration of the State Assemblies/Lok Sabha?
  - (ii) Should it be shorter than the duration of the State Assemblies/Lok Sabha.
  - (iii) There are some who feel that it should be 3 years/2 1/2 years or less. Kindly indicate your preference giving reasons thereof.

32. We would like to solicit your opinion on the following:

- (i) Number of meetings of Gram Sabha
- (ii) Quorum for the meeting
- (iii) Mode of communicating the dates of meetings
- (iv) Suitability of dates of meetings.

33. How could the meetings of Gram Sabha be made more effective?

### SCHEDULE - 2: OFFICIALS

Name \_\_\_\_\_ Age \_\_\_\_\_

Education \_\_\_\_\_ Post Held \_\_\_\_\_

Experience \_\_\_\_\_ Address \_\_\_\_\_

District \_\_\_\_\_ State \_\_\_\_\_

1. Are you familiar with the proposed Constitutional Amendment Bills regarding Panchayati Raj Institutions?

Yes/No

2. Proposal for giving Constitutional Status to Panchayati Raj is a step in the direction of:-

- (a) giving power to the people.
- (b) Strengthening democracy at grass root level.
- (c) affecting state autonomy.
- (d) Demolishing federal structure.

3. What are the main differences between the Constitutional 64th Amendment Bill and the 74th Amendment Bill?

4. Do you feel that the present arrangement for conducting Panchayati Raj elections have not been able to achieve the objectives of independent and fair election?

5. Who should conduct the Panchayati Raj elections?

- (a) The state government.
- (b) Independent state election machinery.
- (c) Independent constitutional body (Election Commission).
- (d) any other.

6. What are your suggestions on the status, composition and powers of the proposed Election Commission?

7. What are your suggestions on the status, composition and powers of the proposed Finance Commission?
8. Do you think that the existence of Finance Commission will improve the financial conditions and, thereby the working of Panchayati Raj Institutions?
9. Should the elected representatives of the Panchayati Raj Institutions be given any representation on the Finance Commission?

Yes/No

(a) If yes, to what extent?

10. Who should audit the Panchayati Raj Accounts?

- (a) State Government.
- (b) State Statutory Authority.
- (c) Central Government.
- (d) Constitutional Authority like C.A.G.
- (e) Any other.

11. Are you satisfied with the present system relating to supersession of Panchayati Raj?

Yes/No

(a) If no, please assign reasons.

12. What changes are required to be introduced in the existing Act of your State to ensure prompt elections to superseded panchayati Raj Bodies?

- (a) Are you in favour of mandatory statutory time stipulation of six months for re-election.

Yes/No

(b) If yes, should it be more or less than six months.

13. Under what circumstances, in your view, Panchayati Raj Institution can be superseded?

14. Are you satisfied with the prevailing practices of suspension of members of the Panchayati Raj Institutions?

Yes/No

(a) If no, please give your suggestions.

15. Do you feel that the principles of fairness (rules and natural justice) should be observed before taking the final action of suspension?

Yes/No

16. Who should have the authority to suspend elected representatives?

17. What is your opinion on the representation of SC/ST on Panchayati Raj Institutions?

(a) Whether present system is adequate?

Yes/No

(b) If no, what alternatives would you like to suggest?

18. What is your opinion about women's representation on Panchayati Raj Institution?

19. What changes are required to be made in the existing Act of your state for ensuring women's representation on the lines of proposed amendments?

20. Based on your experience which model of Panchayati Raj may be functionally suitable to your State.

- (a) One tier
- (b) Two tier
- (c) Three tier

Please assign reasons for opting for a particular model.

21. What should be the tenure of Panchayati Raj Institutions?

- (a) 3 years
- (b) 4 years
- (c) 5 years
- (d) 6 years

22. Whether there should be a separate cadre of Panchayati Raj bureaucracy?

Yes/No

If your reply is in yes, please, assign reasons.

23. Taking a hypothetical case that all the development functions should be taken care of by Panchayati Raj Institutions, what role you visualise to be played by District Administration?

24. What is your opinion in regard to relation-ship between District administration and Panchayati Raj Institutions?

- (a) District Administration should be subordinated to Panchayati Raj Administration.
- (b) Panchayati Raj Administration should be subordinated to District Administration.
- (c) There is no need of subordination.
- (d) Efforts should be made in the direction of ensuring coordination in between district administration and panchayati raj administration.

25. How better coordination can be ensured between the different tiers of Panchayati Raj Institutions?

26. What measures would you like to suggest to make Gram Sabha effective?

27. Are you satisfied with the functioning of Nyaya Panchayat in your State?

Yes/No

(a) If no, suggest measures to improve its functioning.

28. To develop Nyaya Panchayats as an alternative model of administration of justice at the grass root level what structural changes would you like to suggest?

29. Are you satisfied with the present practice of Rule formulation?

Yes/No

(a) If no, give reasons?

(b) Have the required rules been framed by your State?

Yes/No

30. What is your opinion about the requirement of laying the Rules on the table of the House?

(a) Is it satisfactory?

31. What measures would you like to suggest for rule making to be more democratic?

32. What is your opinion on the pre-publication of Rules in a draft form?

